

NATIONAL LABOR RELATIONS BOARD



80 YEARS

1935 - 2015

80 YEARS OF PROTECTING EMPLOYEE RIGHTS

ACKNOWLEDGMENTS

The Board and the General Counsel would like to thank those who contributed to this book. The project originally began as part of the 75th Commemorative Celebration but was regrettably delayed. As the Board's 80th Anniversary approached, the Chairman and the General Counsel directed that the work be resumed on the project.

Many people deserve acknowledgment for the work you have in your hands. It was initially under the direction of Deputy Assistant General Counsel Fred Jacob of the Appellate Court Branch who left the Board in 2013 to become Solicitor of the Federal Labor Relations Authority. In addition, this book would not be possible without the contributions of several authors. Chief Administrative Law Judge Robert Giannasi contributed the biography of the Board's first General Counsel Charles Fahy and the history of the ALJ corps. Associate General Counsel John Ferguson offered memories of his mentor, Associate General Counsel Nort Come and he and Associate General Counsel Barry Kearney updated the NLRB decisions during the modern era. Jessica Gibson and Tom Clark, officers in the NLRBU and NLRB Professional Association, respectively, graciously delivered the history of the Board's unions.

Most importantly, this book would not be possible without the work of two legends of the NLRB. First, former Indianapolis Regional Director Bill Little wrote a history of the NLRB for its 50th Anniversary on which this book is based. As the 50th Anniversary publication noted, Bill Little's "credentials are impeccable to tell the NLRB's story – he lived it." Second, former Deputy General Counsel John E. Higgins Jr., who retired just as the Board's 75th year came to a close, graciously opened his treasure trove of NLRB memories and memorabilia to the project.

When the effort to complete this booklet was resumed in 2014, the Board and the General Counsel requested that Tom Christman, Director of the Office of Employee Development, Andrew Martin, NLRB's Librarian, and Doug Vickery, Senior HR Development Specialist, undertake completion of the task. Thanks to Tom for coordinating the project, Andrew for providing additional content and hard to find pictures and particularly to Doug for tracking and inserting what seemed like countless content and pictorial enhancements. This team received critical guidance and new content from John E. Higgins Jr., now on the faculty of the Columbia School of Law at the Catholic University of America, and Jennifer Abruzzo, current Deputy General Counsel. Our sincere thanks to all of them for finalizing this booklet which will bring back memories and appreciation of the Agency's successes.

No acknowledgments can be complete, however, without thanking the NLRB employees who, since 1935, have worked tirelessly each day to ensure that the National Labor Relations Act's vision of promoting industrial democracy in all workplaces around the country remains vibrant and real to American workers, their representatives, and their employers.

NATIONAL LABOR RELATIONS BOARD

MEMBERS OF THE BOARD

Chairman Mark Gaston Pearce
Chief Counsel Ellen Dichner

Member Philip A. Miscimarra
Chief Counsel Peter J. Carlton

Member Kent Y. Hirozawa
Chief Counsel Peter D. Winkler

Member Harry I. Johnson, III
Chief Counsel James R. Murphy

Member Lauren McFerran
Chief Counsel John F. Colwell

OFFICE OF THE GENERAL COUNSEL

Richard F. Griffin, Jr., General Counsel
Jennifer Abruzzo, Deputy General Counsel

Ronald E. Crupi, Chief Financial Officer

Caroline H. Krewson, Director, Division of Administration

John H. Ferguson, Associate General Counsel,
Division of Enforcement-Litigation

Margery E. Lieber, Associate General Counsel,
Division of Legal Counsel

Brenda V. Harris, Director, Office of Equal
Employment Opportunity

Anne G. Purcell, Associate General Counsel, Division of
Operations-Management

Barry J. Kearney, Associate General Counsel, Division of Advice

BOARD-SIDE SENIOR MANAGERS

Bryan Burnett, Chief Information Officer

Celine McNicholas, Director, Congressional and
Public Affairs Office

William B. Cowen, Solicitor

Robert F. Schiff, Chief of Staff to the Chairman

Robert A. Giannasi, Chief Administrative Law Judge

Gary H. Shinnars, Executive Secretary

MESSAGE FROM THE PRESIDENT



THE WHITE HOUSE
WASHINGTON

January 26, 2015

I am pleased to join in commemorating the 80th anniversary of the National Labor Relations Act.

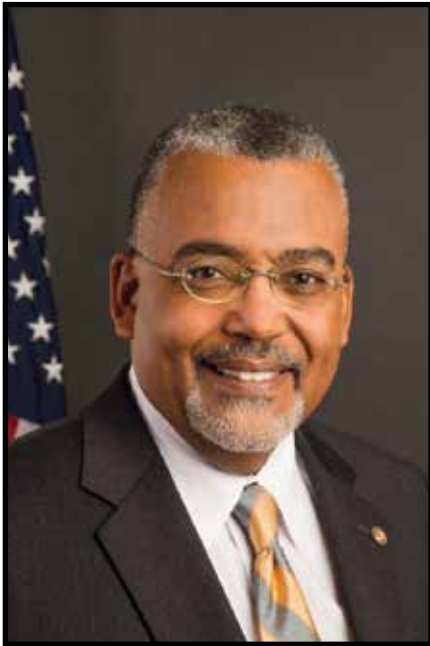
Signed into law by President Franklin D. Roosevelt in 1935, the National Labor Relations Act was created to realize “common justice and economic advance.” By establishing the National Labor Relations Board, the act helped secure America’s promise through preserving and protecting workers’ rights to organize and collectively bargain.

Our Nation was built on hard work, a sense of shared responsibility, and a commitment to looking out for one another. At a time of instability for many working Americans, this law enabled individuals to come together in common purpose to raise their voices for a fairer future. In guaranteeing workers’ rights to form and join unions, it laid the foundation for the growth and prosperity that have brought us to this point, and its legal framework continues to empower our working women and men to meet the challenges of our time.

On the 80th anniversary of this historic legislation, let us remember the importance of maintaining a strong, stable working environment for all. The grit and determination of our people have driven us forward for generations, and we must keep supporting hardworking Americans as they strive to forge a brighter tomorrow for themselves and their families.

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style.

MESSAGE FROM THE CHAIRMAN



It is my great pleasure, on behalf of the National Labor Relations Board (NLRB), to welcome you to this special publication commemorating the eightieth anniversary of a ground-breaking law: the National Labor Relations Act.

Enacted during the Great Depression, the Act was designed to restore prosperity – to put more money in the pockets of working Americans, by making it possible for them to organize labor unions and to engage in collective bargaining with their employers. When President Franklin Roosevelt signed the law in 1935, he said that its goal was to achieve “an act of both common justice and economic advance.” Since then, millions of American workers have freely chosen to join unions, and collective bargaining has helped Americans to build and keep a middle-class society, through good economic times and bad.

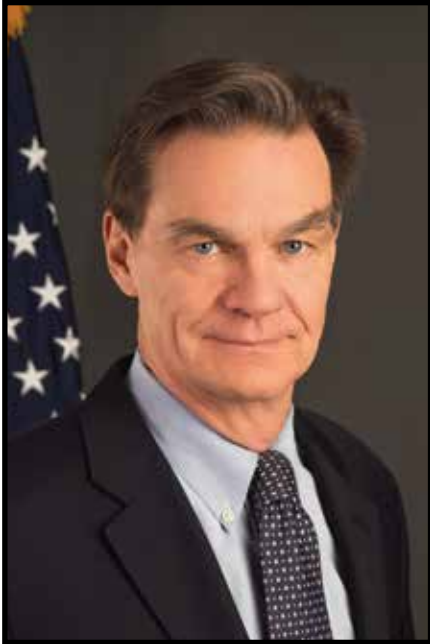
Both our country and the world have changed a great deal over the last eight decades, but the values reflected in the National Labor Relations Act – democracy in the workplace and fairness in the economy – are still vitally important. The law continues to protect employees who seek to improve their working conditions by joining together, with or without a labor union. And the law continues to let unions and employers resolve their differences at the bargaining table and devise solutions to meet economic challenges.

On behalf of the people who are committed to carrying out this important law, we invite you to learn about the history of the National Labor Relations Act and the part it has played in shaping our country.

A handwritten signature in black ink that reads "Mark Gaston Pearce". The signature is fluid and cursive, written in a professional style.

Mark Gaston Pearce
Chairman

MESSAGE FROM THE GENERAL COUNSEL



The NLRB is very proud of its many accomplishments and contributions over the past 80 years in protecting workplace democracy, promoting workers' rights, reducing interruptions in commerce caused by conflicts between employers and employees (or their representatives), enhancing American labor relations, and strengthening the Nation's economy.

Over 5.7 million private-sector employers fall within the jurisdiction of the Agency, which has two primary functions: (1) to prevent and remedy statutorily defined unfair labor practices by employers and labor organizations and (2) to conduct secret-ballot elections among employees to determine whether they wish to be represented by a labor organization.

Since 1935, millions of employees have cast votes in NLRB-conducted elections for and against union representation. When a majority of employees at a particular workplace select union representation, most employers and unions have embraced the NLRA's principles of good faith bargaining, creating harmonious relationships that benefit everyone at the workplace, as well as the public at large. However, when employers and unions have failed to respect workers' rights under the NLRA, the Agency has prosecuted the unfair practices and provided redress to those affected, predominantly in the form of reinstatement and backpay.

Despite the passage of 80 years, the principles underlying the Act in ensuring the right of private-sector workers to organize and bargain collectively with their employers and to participate in concerted activities to improve their pay and working conditions remain constant.

It is an honor to serve as General Counsel of the Agency during its 80th Anniversary and to work with such a talented, diverse, and committed group of Board agents. With their dedicated support and assistance, Senator Wagner's vision of an exceptional Agency that does its utmost to protect workers' rights and promote industrial peace is alive and well.

A handwritten signature in black ink, reading "Richard F. Griffin, Jr." The signature is fluid and cursive.

Richard F. Griffin, Jr.
General Counsel

INTRODUCTION

EIGHTY YEARS OF
WORKPLACE DEMOCRACY



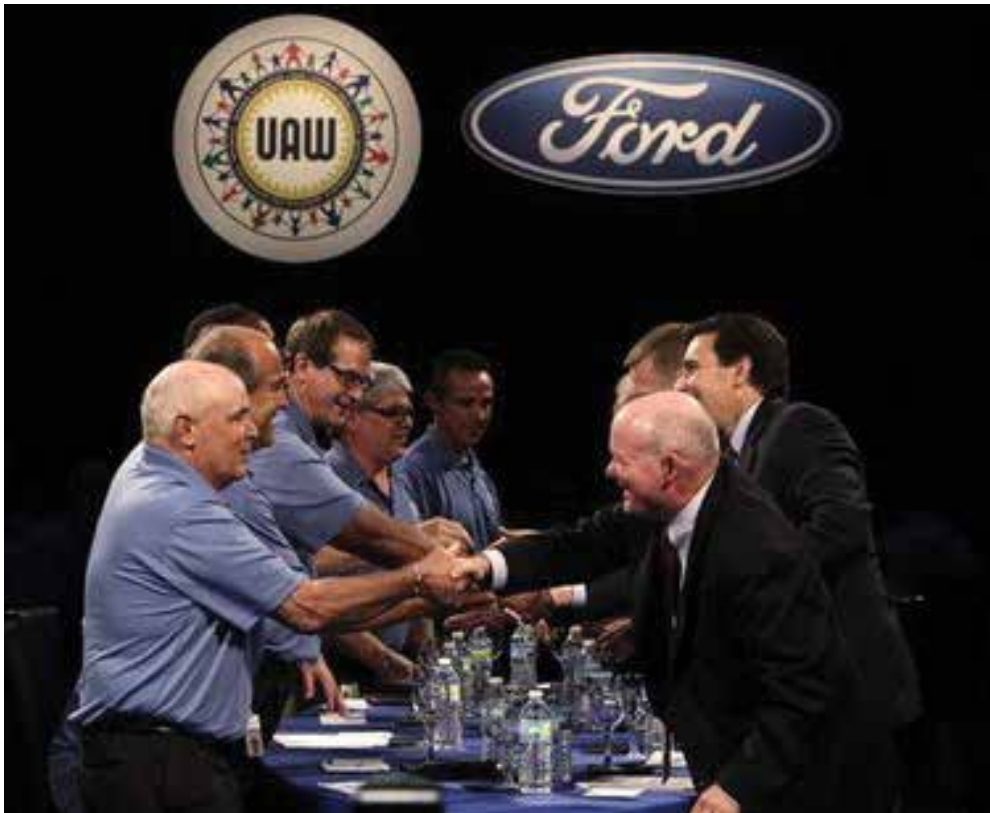
The National Labor Relations Board is an independent federal agency created in 1935 by Congress to administer the National Labor Relations Act, the basic law governing relations between labor unions and business enterprises engaged in operations affecting interstate commerce.

The Act guarantees the right of private sector workers to organize and bargain collectively with their employers and to participate in concerted activities to improve their pay and working conditions, with or without representatives advocating on their behalf. Employers and employees alike are protected from unfair labor practices and have an impartial forum in the National Labor Relations Board for the resolution of workplace disputes.

Declared constitutional by the Supreme Court in 1937, Congress amended the Act in 1947, 1959 and 1974, each amendment increasing the NLRB's statutory responsibilities.

“DEMOCRACY CANNOT WORK
UNLESS IT IS HONORED IN THE
FACTORY AS WELL AS THE POLLING
BOOTH; MEN CANNOT BE TRULY
FREE IN BODY AND IN SPIRIT
UNLESS THEIR FREEDOM EXTENDS
INTO THE PLACES WHERE THEY
EARN THEIR DAILY BREAD.”
SENATOR ROBERT F. WAGNER

Senator Robert F. Wagner in 1935, upon offering his bill that was to become the nation's basic labor law.



United Auto Workers officials, left, and Ford Motor Company officials shake hands during a news conference for the start of national negotiations in Dearborn, Mich., Friday, July 29, 2011.

AP Photo/Paul Sancya

The purpose of the Act is to serve the public interest by reducing interruptions in commerce caused by industrial strife. It seeks to do this by providing orderly processes for protecting and implementing the rights of employees, employers and unions in their relations with one another.

In its statutory assignment, the NLRB has two principal functions: (1) to determine and implement, through secret ballot elections, the free democratic choice by employees as to whether they desire union representation in dealing with their employers, and if so, by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions or both.

The Agency does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections which are filed in the NLRB's 50 regional, subregional, and resident offices.

The NLRB has no independent statutory power to enforce its decisions and orders. It may, however, seek enforcement in the United States Courts of Appeals; parties to its cases also may seek judicial review.

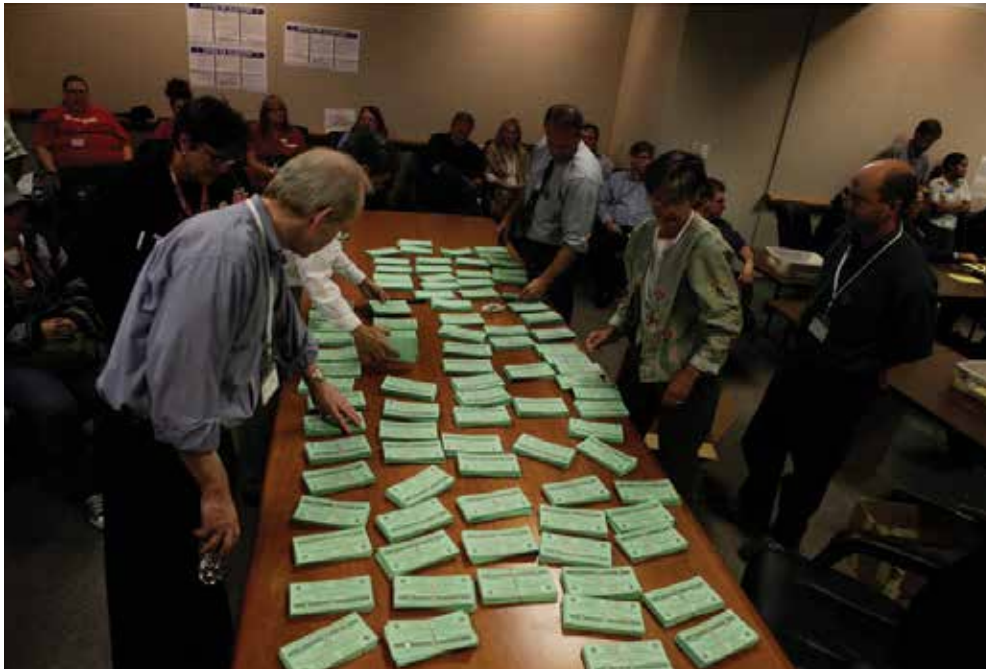
The Act's unfair labor practice provisions place certain restrictions on actions of employers and labor organizations in their relations with employees, and with each other. Its election provisions provide the authority for conducting and certifying

results of representation elections, which determine collective bargaining wishes of employees.

NLRB authority is divided by law and by delegation. The five-member Board primarily acts as a quasi-judicial body in deciding cases on formal records. The General Counsel, who, like each member of the Board, is appointed by the President with the advice and consent of the Senate, is responsible for the investigation and prosecution of unfair labor practice cases. The General Counsel exercises general supervision over the NLRB's network of field offices as well as financial, administrative and personnel operations.

More than 90 percent of the unfair labor practice cases filed with the NLRB in the regional offices are disposed of by the regional offices without the necessity of formal litigation before the Board. Only about four percent of the cases go through to Board decision.

The pages that follow tell the Board's story, mostly with photographs, over its eighty years. This book does not attempt to be a comprehensive history of either the NLRB or development of the law under the Act. Rather, its purpose is to capture highlights of the Agency's history and to serve as an album for the labor-management community on the Act's anniversary.



Region 32, Ballot Count on October 18, 2010 for NLRB Kaiser Elections in Oakland, California.
Robert Durell

CHAPTER ONE

IN SEARCH OF A NATIONAL
LABOR POLICY





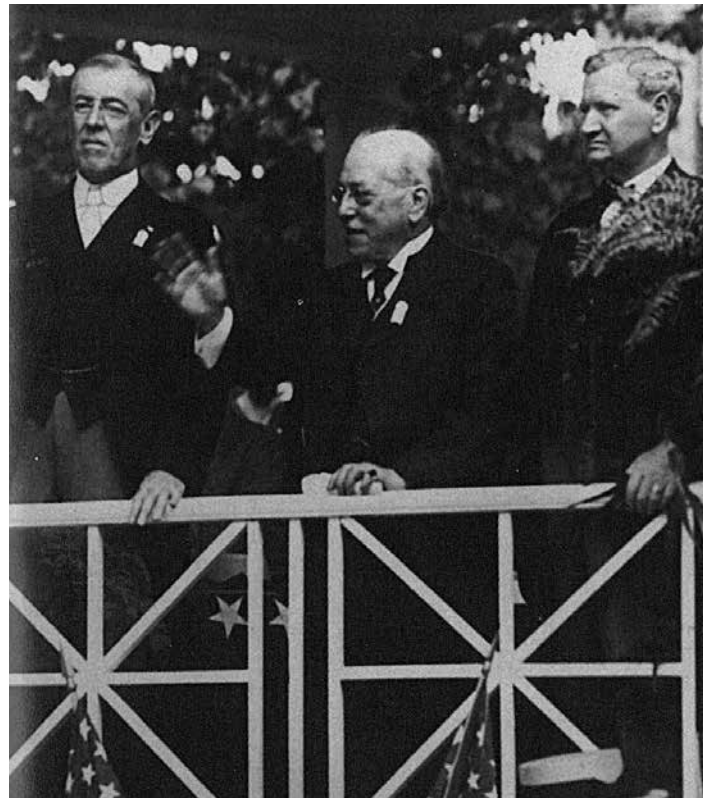
Drilling Department, National Cash Register Co., Dayton, Ohio, 1902.

WAR LABOR BOARD: WORLD WAR I

The struggle of workers in 18th and 19th century America led to the beginnings of a national labor policy. When the United States entered World War I in 1917, the labor movement had grown to three million members. President Woodrow Wilson took steps to promote labor peace by creating a tripartite War Labor Board in 1918.



Workers manufacturing weapons parts, World War I.



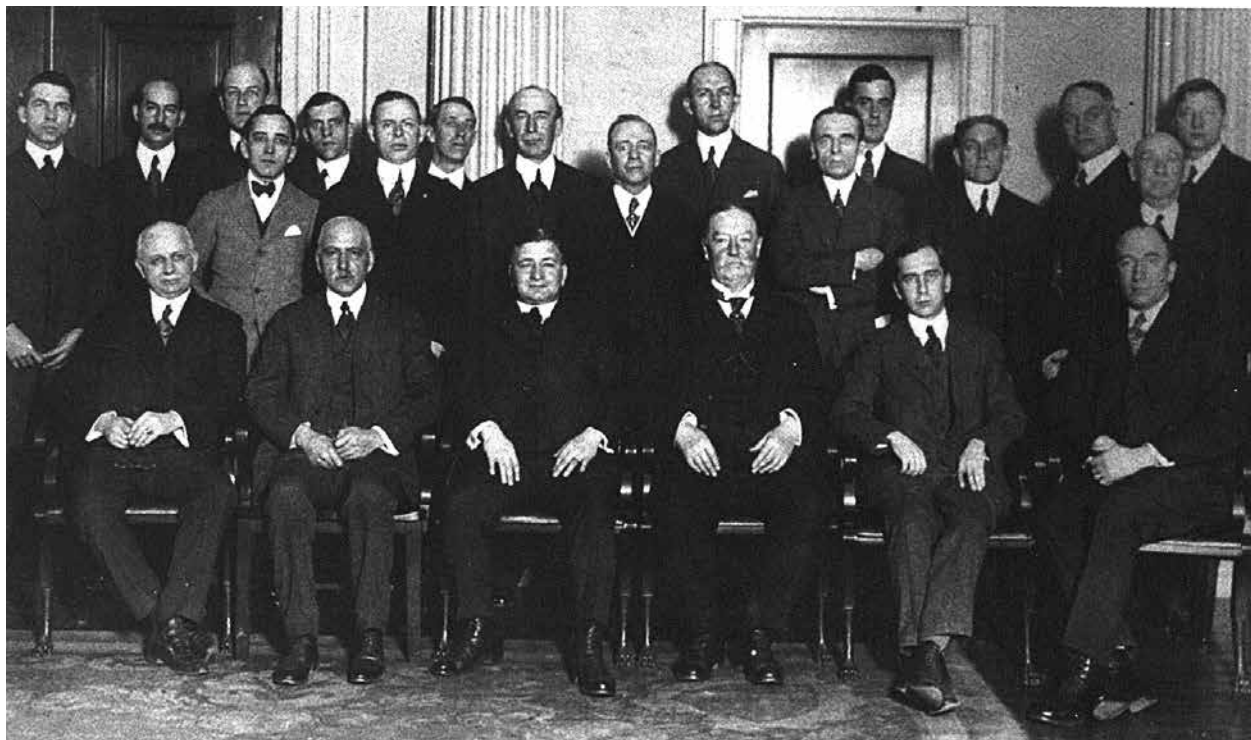
President Woodrow Wilson, AFL President Samuel Gompers, and Secretary of Labor William Wilson at dedication of AFL building, Washington, D.C., July 1916.

Although the War Labor Board did not have enforcement powers, labor and management agreed to refrain from strikes or lockouts as a result of its mediating efforts. The War Labor Board recognized the "right of workers to organize in trade unions and to bargain collectively through chosen representatives." During its short life, the War Labor Board handled 1,200 cases affecting 700,000 workers.

The labor-management truce during World War I evaporated after the armistice in 1918. The following year, unions lost major strikes in the steel, coal, and rail industries, and union membership dropped dramatically. Hostility between labor and management ran high in the 1920s. It was during this period that the use of the labor injunction to stop strikes reached its peak.



Police attack striking textile workers, Passaic, N.J., 1926.



War Labor Board, 1919.

RAILWAY LABOR ACT

Passage of the Railway Labor Act in 1926 was a breakthrough in paving the way for a national labor policy. It stressed the importance of collective bargaining to minimize strikes and lockouts on railways and gave railroad workers the right to select their own bargaining representatives "without interference, influence or coercion."



Rep. Fiorello H. LaGuardia of New York.

NORRIS-LAGUARDIA ACT

The Great Depression of the 1930s changed the face of labor relations by creating a climate in which Congress was willing to experiment with new approaches to industrial conditions and economic policy.

In the depths of the Depression, during the last year of the Hoover Administration in 1932, Congress passed the Norris-LaGuardia Act, which curbed the power of the courts to issue injunctions or restraining orders against strikes, absent violence or fraud.

More importantly, Congress declared the policy of the United States to be that workers were free to join unions and bargain collectively. The search for a national labor policy was coming closer to fruition.



Sen. George Norris
of Nebraska.





President Roosevelt signs National Industrial Recovery Act, June 1933. Senator Robert F. Wagner of New York is second from left.

NATIONAL INDUSTRIAL RECOVERY ACT

President Franklin Delano Roosevelt's New Deal Administration committed the nation to an unprecedented program of government-industry cooperation. Typifying this approach was the National Industrial Recovery Act (NIRA) of 1933.

The NIRA suspended the antitrust laws to permit employers within a single industry to form trade associations that set production quotas or fixed prices under "Codes of Fair Competition."

In return, employers stipulated that the Codes would establish minimum wages, maximum hours and other conditions

of employment. To encourage participation by unions, Section 7(a) of the NIRA guaranteed employees "the right to organize and bargain collectively through representatives of their own choosing" without employer interference or coercion.

Additionally, it provided that employers should not require employees to join company unions or prohibit them from joining unions of their choice.

While lacking the enforcement machinery, the declaration of labor policy set forth in Section 7(a) had a profound impact on the course of labor relations. The provision heightened organizing activity. Unions used it as a basis for telling unorganized workers in organizing campaigns that President Roosevelt wanted them to join unions.

NATIONAL LABOR BOARD

The renewed interest in organizing, together with the refusal of many employers to recognize the unions their employees wanted, triggered strikes in support of the organizing drives. By August 1933, the situation had become so severe that President Roosevelt created a National Labor Board to bring about compliance with Section 7(a) and to mediate labor disputes.

He made Senator Robert F. Wagner of New York its chairman. Three industry representatives were selected for the NLB by the National Recovery Administration's Industry Advisory Board, and three labor members were picked by the NRA's Labor Advisory Board.

In December 1933, the President formalized the powers of the NLB with an executive order. Two months later, he signed Executive Order 6580 authorizing the NLB to conduct union representation elections and handle violations of the NIRA codes.

The NLB, however, lacked any real power. The authority of the National Recovery Administration, which administered the Act, was limited to withdrawing an employer's privilege of displaying the Blue Eagle, emblematic of NRA participation.

By June 1934, when the NLB's authority expired, only four employers had been deprived of the Blue Eagle for violations of Section 7(a). Despite its problems in achieving voluntary compliance with Section 7(a), the NLB managed to settle 1,019 strikes, avert 498 others, and settle 1,800 other types of labor disputes.

STRONGER AGENCY SOUGHT

Frustrated by the NLB's failure to achieve voluntary compliance with Section 7(a), Senator Wagner introduced a bill in February 1934 to set up a permanent tripartite Agency that would mediate labor disputes. The new board would be empowered to conduct representation elections and to prevent "unfair labor practices" by issuing cease-and-desist orders. The bill encouraged collective bargaining and prohibited employers from interfering with the right of employees to organize.

Management groups attacked the proposed measure as pro-union and unconstitutional, and it failed to gain enough support for passage. However, the doomed bill set the stage for Congressional approval for a compromise.



Charles T. Coiner of Philadelphia, Pa., displays NRA Eagle, the insignia he created, July 1933.



National Labor Board after six months, Louis E. Kirstein, Chairman Wagner, Leo Wolman. Standing (from left); William Green, George Berry, Pierre S. DuPont, Father Francis J. Haas.

“OLD NLRB”

Faced with mounting labor disputes, Congress in 1934 passed joint Public Resolution No. 44, authorizing the President to establish a new board as part of the NIRA. The board, called the National Labor Relations Board, would later be known as the “Old NLRB.”

Unlike the tripartite NLB, this “Old NLRB” was composed of three public members. President Roosevelt named as its first chairman the dean of the University of Wisconsin Law School, Lloyd K. Garrison. After several months, Garrison resigned



At left, Sen. Wagner, AFL President William Green, and Secretary of Labor Frances Perkins at Senate Labor Committee hearing on Wagner bill, March 1935.

and was replaced by Francis Biddle, a corporate attorney from Philadelphia who later was to become the U.S. Attorney General.

The other members were Harry A. Millis, a labor economist from the University of Chicago, and Edwin S. Smith, former Commissioner of Labor and Industries for the state of Massachusetts.

The “Old NLRB” was powerless to enforce Section 7(a), just as the NLB had been, but it was able to achieve compliance from many cooperative employers in the public spirit of the era, which looked to the NIRA to restore the economy to better times. Its decisions also provided a foundation for an emerging national labor policy of collective bargaining.

The “Old NLRB” was first housed at the former NLB offices in the Department of Commerce building and later relocated to the Department of Labor building. Secretary of Labor Frances Perkins tried unsuccessfully to have the “Old NLRB” placed under the Labor Department’s control.

During the 1933-35 period of the NIRA boards, the labor movement grew at an unprecedented pace. It also became more militant. Strikes were widespread and the economy remained depressed.

The voluntary codes of the NIRA collapsed in May 1935, when the Supreme Court ruled that the NIRA was unconstitutional. Meanwhile, however, plans were unfolding in Congress for a new law.



Above, first meeting of the “Old NLRB” in July 1934. From left: Edwin S. Smith, Harry A. Millis, and Chairman Lloyd Garrison.



San Francisco Examiner, May 28, 1935
(re: finding that NIRA was unconstitutional).



Benedict Wolf, Executive Secretary of the National Labor Board (1933-1934) and of the "Old" NLRB (1934-1935). He was the first Secretary of the Board after the Wagner Act. At the same time he also served as the first Chief Trial Examiner.



Home of the "Old NLRB," Department of Commerce building, Washington, D.C., 1934.

CHAPTER TWO

THE WAGNER ACT YEARS,
1935–1947



SENATOR WAGNER'S BILL

In the fall of 1934, Senator Wagner began revising his labor disputes bill, determined to build on the experience of the two earlier NIRA boards and to find a solution to the enforcement problem that had plagued them. In February 1935, Wagner introduced the National Labor Relations Act in the Senate.

The Wagner Bill proposed to create a new independent Agency to enforce rights rather than mediate disputes. It would obligate employers to bargain collectively with unions selected by a majority of the employees in an appropriate bargaining unit. The measure endorsed the principles of exclusive representation and majority rule, provided for enforcement of the Board's rulings, and covered most workers in industries whose operations affected interstate commerce.

Wagner's Bill passed the Senate in May 1935, cleared the House in June, and was signed into law by President Roosevelt on July 5, 1935. A new national labor policy was born.

ICON OF THE NLRB: SENATOR ROBERT WAGNER

Senator Robert Wagner is, in many ways, the father of the National Labor Relations Board. He chaired the National Labor Board, a bipartisan commission of labor and industry representatives that used mediation and independent elections to resolve labor disputes arising under section 7(a) of the National Industrial Recovery Act (NIRA). In an effort to correct the shortcomings of the largely powerless NLB, Senator Wagner introduced the "Labor Disputes Act" on March 1, 1934, and then the National Labor Relations Act on February 21, 1935. Senator Wagner served in the U.S. Senate from 1926 until 1949, when failing health forced him to retire. He was born in what is now Germany, and immigrated to this country with his parents in 1885. Senator Wagner died in New York City in 1953.



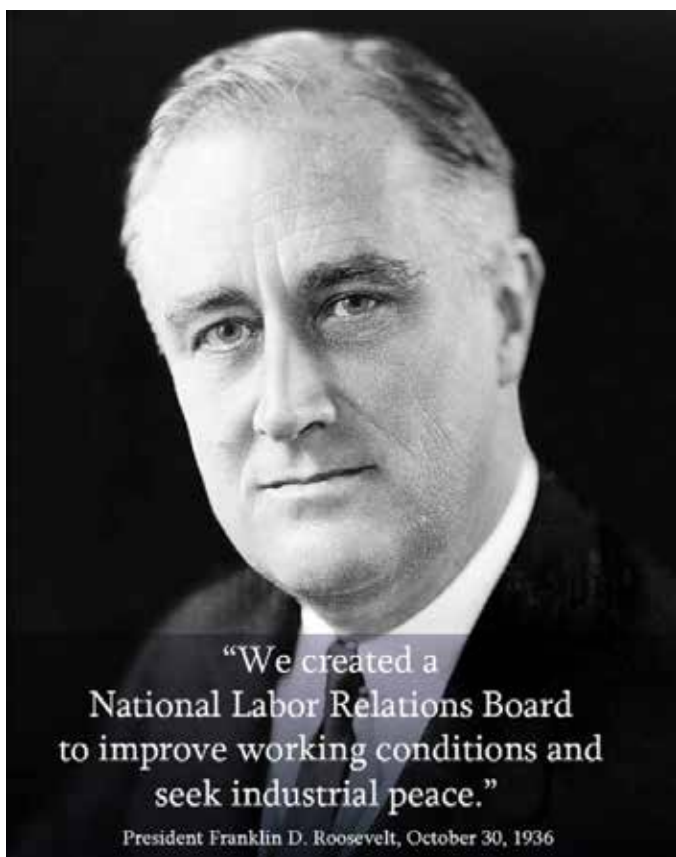
New York Times,
July 6, 1935.



USPS commemorative stamp American, 1975,
recognized the lives of working people.



Painting depicting President Roosevelt signing the Wagner Act, July 5, 1935.



NATIONAL LABOR RELATIONS ACT

The Constitutionality of the law rested on the premise that employer interference with the right of workers to organize into unions and the refusal of employers to bargain collectively led to labor disputes – which, in turn, interfered with interstate commerce. The law's opponents would soon challenge that premise in the Supreme Court.

The new law created a permanent board of three public members and armed it with essential enforcement tools. Subpoena powers enabled the Board to enforce its investigative responsibilities, addressing a weakness that had undermined earlier NIRA boards. It gave the Board the power to find employer unfair labor practices: employers could not restrain, interfere with or coerce employees in the exercise of Section 7 rights; could not create or support “company unions”; could not discriminate against an employee for union activities or for assisting the Board in the investigation of cases; and could not refuse to bargain with a duly designated majority union in an appropriate bargaining unit.

To remedy these unfair labor practices, the Board could issue “cease and desist” orders, and direct affirmative remedies for the violations found, including employee reinstatement, back pay, disestablishment of “sweetheart” unions and good faith



CIO Organizing poster, circa 1935.

bargaining. Employers were required to await a Board order directing them to honor election results before they could pursue a judicial appeal. The law granted the Board the right to seek enforcement of its own orders in the courts.

Representation elections were to be based on the concept of exclusive representation. The statute defined the subject matter of collective bargaining in terms of wages, hours and other conditions of employment.

Congress directed the NLRB to determine appropriate bargaining units. Only employees within such a unit could vote in representation elections, and an employer's bargaining obligation was limited solely to employees in that unit.

NLRB'S WORK: 1935-1947

During the 12-year period from the passage of the Wagner Act in 1935 to the Taft-Hartley amendments in 1947, the Board had developed an impressive record:

- More than 105,000 cases were filed with the Agency, 60,000 of which involved representation questions and 45,000 of which involved allegations of unfair labor practices.
- The Board disposed of 43,556 unfair labor practice charges and 57,852 representation proceedings, for a total of 101,408 cases.
- Some 300,000 workers who were found to have suffered discrimination in violation of the Act were reinstated in their jobs.
- Almost 41,000 workers received back pay, totaling nearly \$12,560,000.
- More than 1,700 company unions, found to be employer-controlled, were disestablished.
- Some 8,000 notices were posted by employers.
- The Board conducted nearly 37,000 elections, 74 percent of them by consent.
- Unions won 30,110 elections, or 81 percent of the total.
- The Supreme Court decided 59 Board cases. Board orders were enforced in full in 45, or 76 percent, of the cases decided.

FIRST BOARD AND GENERAL COUNSEL

President Roosevelt named J. Warren Madden as the new Board's first chairman, and John M. Carmody and Edwin S. Smith as its first members. Madden had been a law professor at the University of Pittsburgh School of Law. Carmody had served on the "Old NLRB" established by Resolution 44, and Smith had been a member of the National Mediation Board, which administered the Railway Labor Act.

Carmody resigned in August 1936 and was succeeded by Donald Wakefield Smith, a Washington attorney. Succeeding Smith in 1939 was William M. Leiserson, who briefly had been the secretary of the original NLRB in 1933.

As its first general counsel, the Board chose Charles Fahy, who later served as Solicitor General and as a judge of the U.S. Court of Appeals for the District of Columbia.



First General Counsel, Charles Fahy (1942 photo).



First NLRB members (from left) John M. Carmody, J. Warren Madden, and Edwin S. Smith, 1935.



Member Edwin S. Smith, center, Charles W. Hope, left, Director of NLRB Seattle office, and Malcolm Ross, NLRB Director of Publications, arrive for hearing on strike by American Newspaper Guild's Seattle chapter against Post Intelligencer, Seattle, Wash., Sept. 1936.



Board members Edwin S. Smith, Donald W. Smith and J. Warren Madden, 1938.

ICON OF THE NLRB: JUDGE CHARLES FAHY

On February 9, 1937, a 44-year old, soft-spoken lawyer, with a mild Georgia drawl, rose to address the Supreme Court of the United States. He sought to convince the Court that the Wagner Act creating the National Labor Relations Board was constitutional. Since passage of the Act two years before, the country had suffered incessant strikes and fear-inducing economic instability. Attempts to enforce the Act had met hardened resistance. In some parts of the country, Board hearings had been routinely enjoined. Many lawyers, including some in government, doubted the Act's constitutionality. Nevertheless, under the leadership of that young, soft-spoken lawyer, Charles Fahy, its first General Counsel, the Board had patiently developed records and carefully selected five cases, under an astutely crafted legal strategy, that would eventually make their way to the Supreme Court.

One of those cases, *Jones and Laughlin*, not only declared the Act constitutional, but also ushered in the modern era of federal legislative authority under the commerce clause of the Constitution. Chief Justice Earl Warren called Fahy's work on the Wagner Act cases "one of the most important jobs of lawyering" in the Twentieth Century.

After his tenure as General Counsel, Fahy served in numerous high-level government posts, including Solicitor General of the United States and Chairman of President Truman's Committee to Integrate the Armed Forces. He was subsequently appointed to the United States Court of Appeals for the District of Columbia Circuit, where he served from 1949 until his death in 1979. But, of all his jobs, Judge Fahy said the most rewarding was General Counsel of the Labor Board during its formative years.

COLLECTIVE BARGAINING ENCOURAGED

And so, with a budget of \$659,000 and an employee complement of 196 – of whom 86 were based in the Washington, D.C., headquarters and the balance in 21 regional offices – the Agency took its first steps to implement its statutory function of protecting the right of employees to participate in controlling their economic destiny.

The secret ballot took the place of the recognition strike. The long search for a national labor policy had finally coalesced with the Congressional declaration:

It is hereby declared to be the policy of the United States to eliminate the certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise of workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.



Steel workers, Aliquippa, Pa., July 1938.

WAGNER ACT CHALLENGED

No sooner had the Wagner Act passed than employer groups mounted a campaign against it. On the date of passage, the National Association of Manufacturers denounced the new law as unconstitutional. In September 1935, the American Liberty League issued a lengthy brief arguing against the constitutionality of the law and advising employers to disregard it.

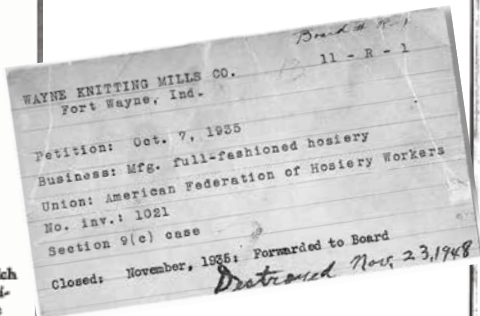
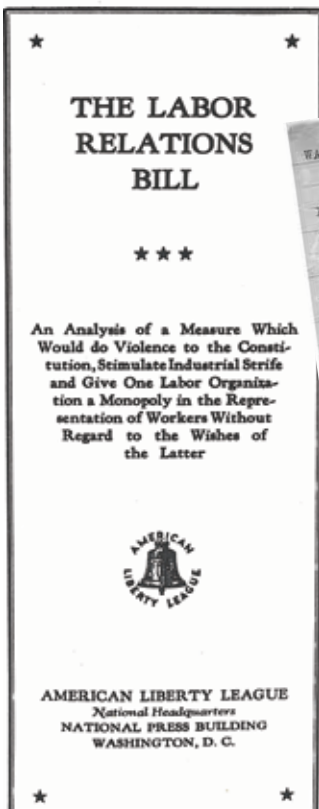
Employers had ample cause for doubting the constitutionality of the Wagner Act. In the period from the Liberty League's brief to the 1936 presidential election, the Supreme Court declared unconstitutional much of the New Deal's innovative economic legislation.

In that climate, the federal courts issued nearly 100 injunctions against the operation of the Act. The Board effectively was paralyzed until the Supreme Court ruled on the law's constitutionality.

JONES AND LAUGHLIN

The stage was set for one of the legal showdowns of the century. In November 1936, Roosevelt was re-elected by a landslide. Several months later, he unveiled his "court-packing plan," complaining of the Supreme Court's "nine old men" who had blocked his New Deal plans. In 1937, the Court saved the Act in a 5-to-4 decision upholding its constitutionality.

In the pivotal *Jones and Laughlin* case, the Supreme Court sustained Congress's power to regulate employers whose operations affect interstate commerce, even though they



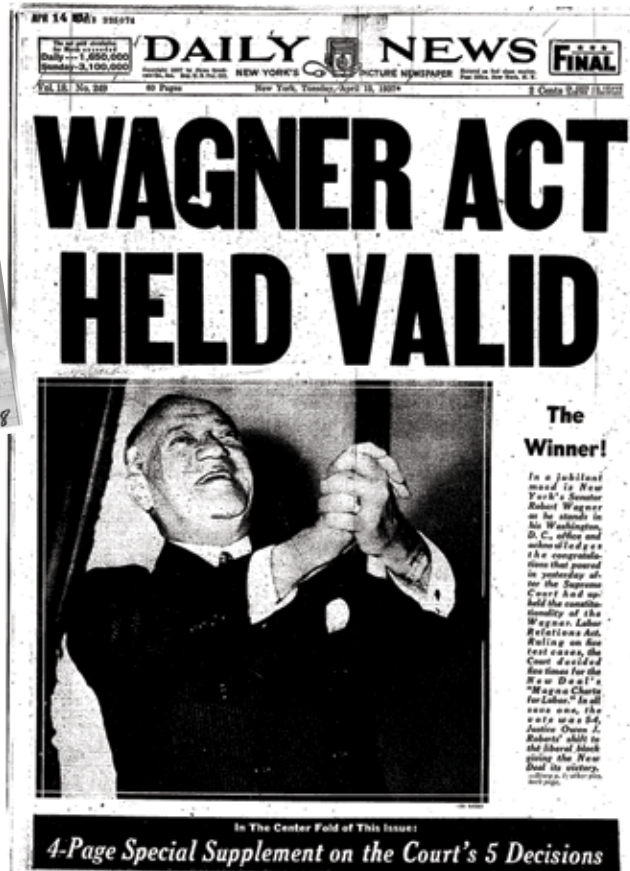
The Regional Office case file card for the Wayne Knitting Mills election.

American Liberty League pamphlet on Wagner Act, Washington, D.C., April 1935.

were not directly engaged in commerce. The Court noted the effects of the 1919 steel strike as an example of how a labor dispute in manufacturing industries can impede the flow of goods in interstate commerce.



First NLRB election was held in firehouse in Fort Wayne, Ind., December 1935, on behalf of workers at Wayne Knitting Mills.



New York Daily News, April 13, 1937.

EXPANDING AGENCY MEETS HOSTILITY

Constitutionality determined, the Board's problems were far from over. The budding Agency was besieged not only by employers, but by labor unions as well.

As Chairman Madden observed, "Employers almost universally did not welcome the Act"; many of them charged the Board with pro-labor bias. While management's reaction to labor's "Magna Carta" was not surprising, the American Federation of Labor's hostility to the Act and the Agency was unanticipated. During this time period, the AFL's leaders split over the issue of industrial versus craft unionism. The AFL had traditionally supported organizing within crafts only, but labor leaders in the mass production industries, including John L. Lewis of the United Mine

Workers, Sidney Hillman of the Amalgamated Clothing Workers, David Dubinsky of the Ladies' Garment Workers, and Charles Howard of the International Typographical Union, insisted on organizing industry-wide.

After attempts to resolve the conflict within the AFL failed, the industrial unions split off into the Congress of Industrial Organizations, the CIO. This conflict came to rest on the doorstep of the NLRB, then only five months old. The AFL charged that the Board was pro-CIO. The CIO joined the fray from time to time to protest decisions favorable to the AFL.

Despite the hostility to the new law, the Board's caseload rose 1,000 percent after the *Jones and Laughlin* decision, prompting Congress to appropriate additional operating funds, and the Agency to hire more employees.



UMW President John L. Lewis at mineworkers' meeting, 1937.

CASE INTAKE IN THE FIRST YEAR

The First Annual Report at p.29 et seq. indicates that the Board's overall case intake from the first day of operation through June 30, 1936 was 865 charges and 203 petitions. There were a total of 31 elections in that first year with unions winning 18 and losing 13. Of the total cases C and R filed, 286 were pending at year's end.

The largest group of the 782 processed cases were resolved "by settlement" (331 cases). Table 2 of the First Annual Report breaks out the disposition of these settlements with the largest group (108 cases) disposed of by "recognition of workers representative" and fifty-one by "reinstatement and recognition".

CLIMATE OF OPPOSITION

A Fortune Magazine article, "The G** D*** Labor Board," described the atmosphere in which the Board worked in 1938.

The criticisms of the Board by management and labor came to a head in 1939 during a series of hearings conducted by Representative Howard A. Smith from December of that year to December 1940. A leader of the conservative bloc of the Democratic party, Smith charged the NLRB with a pro-union bias. He also claimed the Agency was dominated by left-wingers and had been infiltrated by Communists.

Fortune Magazine Excerpt:

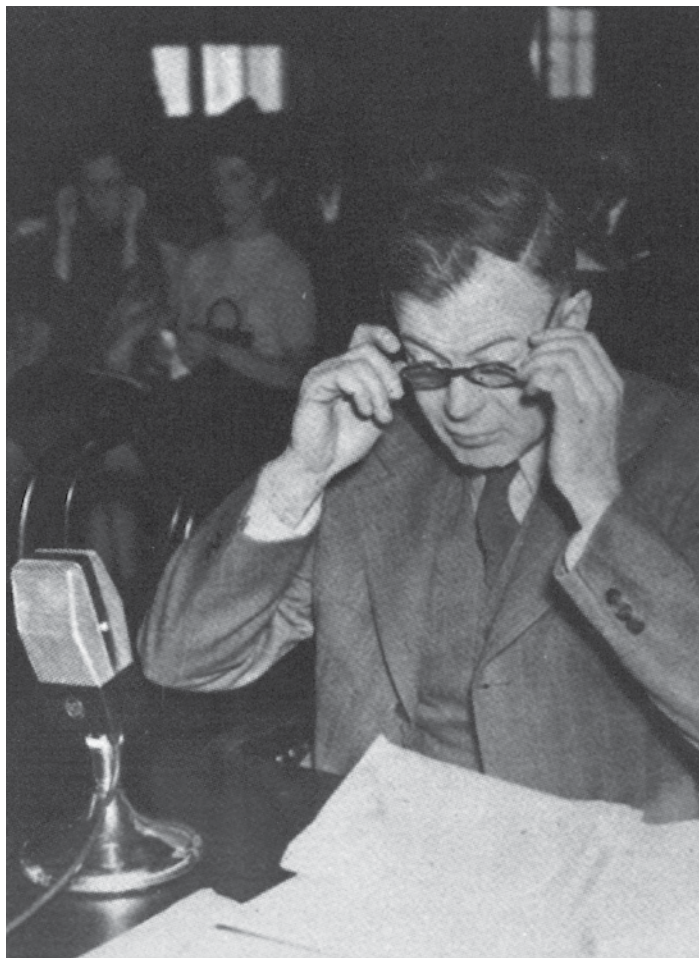
Industrial relations have achieved the unreasonable bitterness of a holy war. They have become a battlefield of slogans and shibboleths, of coercion and propaganda, of intimidation and mutual accusation, of guerrilla warfare and strikes. It is this battlefield that the NLRB has invaded – intending, according to its sponsors, to "smooth out obstructions

to the free flow of commerce" – succeeding, according to its opponents, in making an already intolerable situation infinitely worse. Drawn up on one side is an almost solid phalanx of U.S. industry led by the National Association of Manufacturers and the U.S. Chamber of Commerce, and at the moment heavily supported by the leaders of the AF of L. On the other side is the CIO and what is probably a majority of the rank and file of organized labor.

– Fortune, October 1938.



Smith Committee members (from left): Charles Halleck, Abe Murdock, Chairman Howard Smith, Arthur Healey and Harry Rutzohn, 1939.



Chairman J. Warren Madden before Smith Committee, 1939.



William Green, President of the A.F. of L., complains: "The Board has gone to undreamed-of extremes in a perversion of the act."



Sherman H. Dalrymple, President of the rubber workers union: "The NLRA does not go far enough, needs more teeth."



Cyrus S. Ching, director of industrial relations for the U.S. Rubber Co., says: "For God's sake let's stop calling names."



Charles Fahy, Board general counsel: "Follow the act as good citizenship requires, without reservation or attempt to evade."



Earl Reed, Pittsburgh attorney: "I will be glad to stipulate my attitude [toward the Board] in as expurgated a form as I can."



Raoul E. Desvermine, recently elected President of the Crucible Steel Co. of America, admits: "We are all maneuvering."



Philip Murray, Chairman of the S.W.O.C., says: "Labor is always ready to fight for its rights but it prefers peaceable negotiations."

ICONS OF THE NLRB: WOMEN LEADERS OF THE 1930'S

From its earliest days, the Agency actively recruited and hired women. Two of the first twenty-one Regional Directors, Elinore Herrick in Region 2 and Alice Rosseter in Region 20, were women. And in very early 1936 Dorothea de Schweinatz was appointed as Regional Director in Region 14.

Women attorneys also worked in the Board Headquarters offices. The Review Section employed a number of women; in 1939, for example, 12 out of 91 of the Review attorneys were women. Two of the women attorneys in the Review section later rose to prominent positions within the Agency. Fannie Boyls became a Trial Examiner (ALJ) and Ida Klaus was later appointed the Board's Solicitor. Beatrice Stern worked for the NLB before 1935 as Assistant Executive Officer, then later became Assistant Executive Secretary and finally Executive Secretary for the NLRB.

During the Smith Committee hearings in 1939, congressmen subjected the women attorneys from the Review section to verbal abuse, and what would now be considered sexist remarks. But those women continued the work of the Board making contributions to the new Agency and to the Agency as we know it today.



The Smith Committee made a point of questioning a significant number of the NLRB's women attorneys. In this photo, Committee General Counsel Edmund Toland makes a point with Elinore Herrick, the Agency's first Regional Director in Manhattan.

15 Pretty Young Women Without Experience in Business Revealed as Holding Key Roles in Making NLRB Rulings

Upper-Class Idealists Parade to Stand in House Hearing

(From *Washington Bureau*)
WASHINGTON, Jan. 27.—There are 15 young women in the offices of the National Labor Relations Board in the capital. Some are blondes, but most brunets, and there are a few redheads. They play an important part in the industrial relations of the Nation, and six of them have already appeared before the special House committee investigating the operations of the NLRB.

Most controversial of all laws passed by the New Deal Congresses of the last seven years is the Wagner Act, which created the NLRB. It has caused much criticism of the Administration's labor policy. There is not so much objection to the act itself as there happens to be to the manner in which it has been administered. The 15 women are in key positions, and the three-man board depends upon them for much of the advice required to prepare decisions.

The 15 are listed as review attorneys. All are college graduates and all have passed the bar examinations in the District of Columbia which it may be noted, are decidedly difficult. But few, if any, of the young ladies have had experience in the handling of men, and none have ever faced the problem of obtaining funds with which to meet a payroll.

Decisions Are Based on Their Selections

All the review attorneys come from families of the upper class—that is, families which are fairly independent. Most are idealists and without previous experience in the industrial field. Naturally the three-man board could never read all of the testimony taken at the hearings in all cities of the country. The review attorneys go through the tons of testimony taken and summarize it for the board. It is entirely upon their summations that the decisions affecting hundreds of thousands of workers, are based.

The 15 women attorneys appear



Spectators at the Smith Committee hearing on the Wagner Act in Washington have been treated in recent weeks to a parade of "glamorous girl" witnesses as young review attorneys of the NLRB took the stand to explain their handling of big cases. Shown above are three of them. At the left is Mrs. Fannie M. Boyls; at the right is Mrs. Margaret Bennett Porter; at the center is Carolyn Agger Fortas.

Congressman Hoffman referred to the Review Division on the floor of the house in 1939 as follows:

Those girls who are acting as reviewing attorneys for the board are fine young ladies. They are good looking; they are intelligent appearing; they are just as wonderful, I imagine, to visit with, to talk with, and to look at as any like number of young ladies anywhere in the country, but the chances are 99 out of 100 that none of them ever changed a diaper, hung a washing, or baked a loaf of bread. None of them has had any judicial or industrial experience to qualify her for the job they are trying to do, and yet here they are – after all – good looking, intelligent appearing as they may be, and well groomed all of them, writing opinions on which the jobs of hundreds of thousands of men depend and upon which the success or failure of an industrial enterprise may depend and we stand for it.



The NLRB hired a significant number of women attorneys in the early years. In 1939, for example, 12 out of 91 of the Review attorneys were women. Margaret Holmes McDowell was hired as a "Junior Attorney" in Washington in 1938.

NATIONAL WAR LABOR BOARD

The worst of the Great Depression was over by the end of the 1930s, but a global war lay ahead. Shortly after America entered World War II in December 1941, President Roosevelt convened a labor-management conference to suggest ways of avoiding labor disputes so that war production would not be disrupted.

The conference agreed to reciprocal no-strike, no-lockout pledges and to the creation of an 11-member, tripartite National War Labor Board (NWLB) with powers to mediate, conciliate and arbitrate.

The resolve and productivity of U.S. workers during the war years in building America's industrial strength played a crucial role in defeating the Axis powers.



Coca Cola plant employees on strike, Sikeston, Mo., May 1940.



Ford workers vote in NLRB election at River Rouge plant, Dearborn, Michigan, April 1942.



War Labor Board, January, 1942.



Beatrice Stern, Executive Secretary, NLRB, 1942.

POST-WAR UNION ACTIVITY

After the war, unemployment shot up as billions of dollars for defense contracts were canceled. Prices also rose dramatically.

Unions that had organized the mass production of industries just before the war – only to have their collective bargaining agreements frozen by wartime controls – wanted to make up for lost ground, particularly in the recessionary economy.

A wave of strikes in late 1945 and 1946 was the result. For example, in November 1945, the 180,000 members of the Auto Workers at General Motors struck for 113 days. In 1946, national strikes crippled the soft coal industry and the nation's railroads. That year, there were a staggering 5,000 strikes, involving 4.6 million workers.

ANTI-STRIKE SENTIMENT

Public sentiment was against strikes in the period following the war, and Congress was responsive to the national mood. In 1946, it passed some modest revisions to the Wagner Act, which were vetoed by President Harry S. Truman.

Voters in November 1946 elected the first Republican Congress since 1930, in part because of this sentiment against "labor's excesses." By 1947, the public no longer regarded organized labor as an underdog, but rather as having too much economic and political power. Changes in the Wagner Act were the inevitable outcome.



NLRB election at Bethlehem Hingham Co., Boston, Mass., February 1944.



International Harvester workers on strike, 1946.



TAFT-HARTLEY ACT

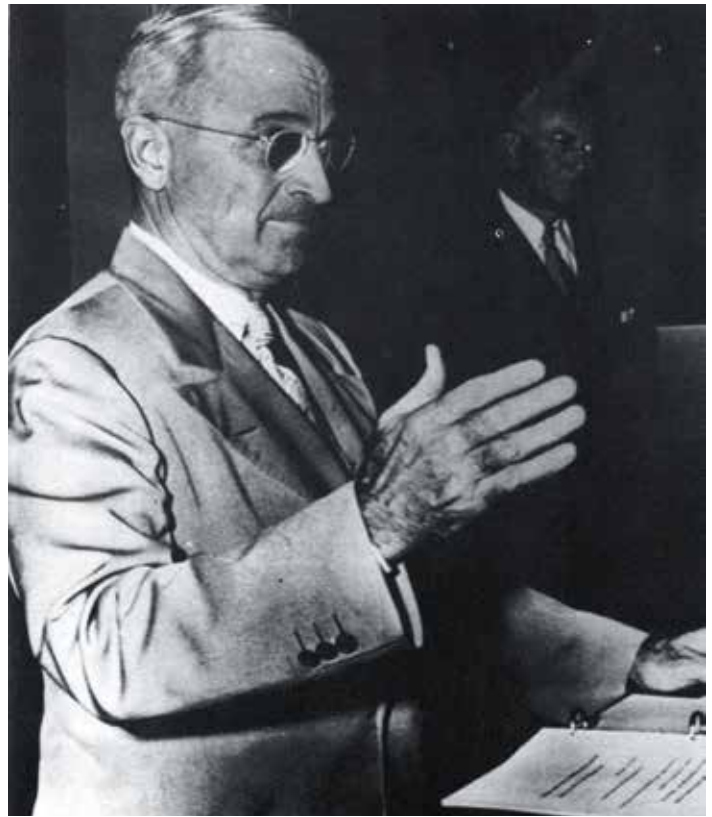
From the day the Wagner Act became law, there was an annual flood of bills, resolutions and riders to amend or repeal it. By 1947, they totaled about 150.

The campaign to amend the Wagner Act in the 80th Congress was led by Senator Robert A. Taft of Ohio, chairman of the Senate Labor Committee, and Rep. Fred A. Hartley, Jr., of New Jersey, the Republican chairman of the House Education and Labor Committee.

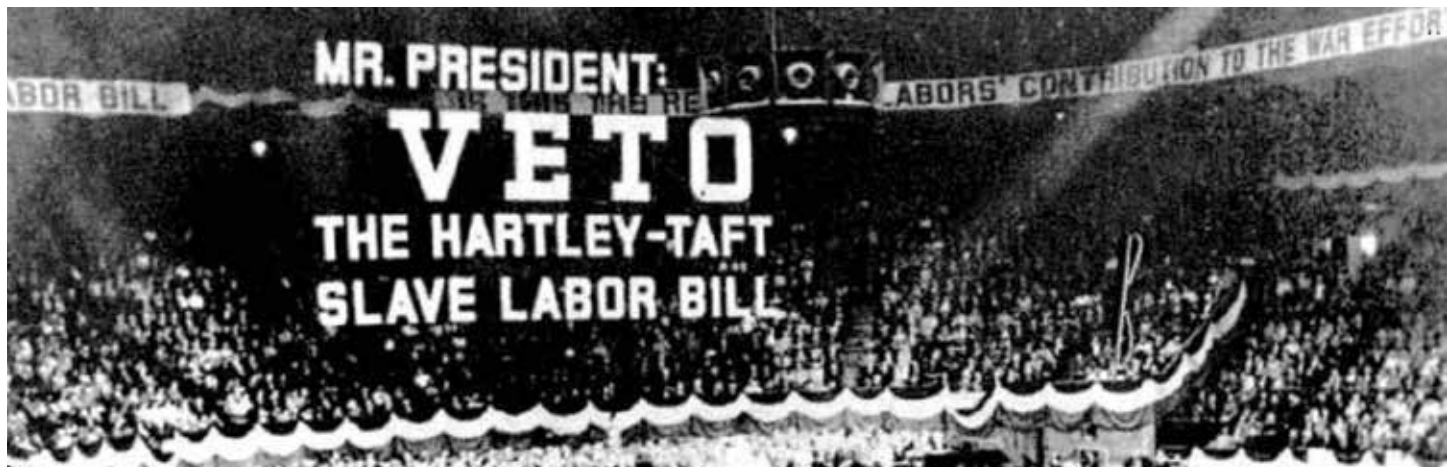
Under the Wagner Act, there were only employer unfair labor practices. In May 1947, after lengthy hearings, Taft introduced a complex bill that would make unions subject to the NLRB's unfair labor practice powers as well. After nine days of floor debate, the Taft bill passed by a vote of 68 to 24.

On the House side, Hartley introduced a bill in April that was even more restrictive from Labor's standpoint. It cleared the House by a vote of 308 to 107. A compromise measure approved by the House and Senate conferees easily passed the House and Senate in early June and was sent to the White House.

President Truman was urged by business and farm groups to sign the bill. Unions held rallies across the country denouncing the Taft-Hartley bill as a slave labor bill, and called for a veto. In June, President Truman vetoed the bill, labeling it "dangerous," "unworkable," "harsh," "arbitrary," and "drastic." Within several days, Congress overrode the veto by a wide margin and the Labor Management Relations Act became law.



President Harry S. Truman before broadcast on Taft-Hartley bill, June 6, 1947.



AFL Union rally, Madison Square Garden, NYC, 1947.



"All the News
That's Fit to Print"

The New York Times.

LATE CITY EDITION
Fast and news today. Interesting
editorials, warmer columns.
Comprehensive Today-Mon. 85¢ Mon. 61¢
Temperature Today-Mon. 74¢ Mon. 62¢
Full U.S. Weather Bureau Reports Page 17

VOL. XCVI. No. 32,658.

Entered as Second-Class Matter
Postoffice, New York, N. Y.

NEW YORK, TUESDAY, JUNE 24, 1947.

THREE CENTS NEW YORK CITY

***BILL CURBING LABOR BECOMES LAW
AS SENATE OVERRIDES VETO, 68-25;
UNIONS TO FIGHT FOR QUICK REPEAL***

TIMELINE:

1935

- Act passed and signed.
- Twenty-one Regional Offices designated.
- Board Members J. Warren Madden and John M. Carmody confirmed.
- J. Warren Madden designated as Chairman.
- Charles Fahy designated as General Counsel.

1936

- Board Member Donald Wakefield Smith confirmed.

1937

- *NLRB v. Jones & Laughlin Steel* decided by Supreme Court 301 U.S. 1.
- New Regional Office opened in Denver (Region 22).

1938

- *NLRB v. Mackay Radio* decided by Supreme Court 304 U.S. 333.

1939

- Board discontinues use of card checks in “R” cases.
- Smith Committee hearings.
- Board Member William M. Leiserson confirmed.

1940

- Harry Millis designated as Chairman.
- Robert B. Watts designated as General Counsel.

1941

- *H. J. Heinz v NLRB* decided by Supreme Court 311 U.S. 514.
- Board Member Gerard D. Reilly confirmed.

1942

- Honolulu designated as Region 23.
- Puerto Rico designated as Region 24.

1943

- Board assumes responsibility for enforcing aspects of War Labor Disputes Act.
- Telegraph Merger Act gives Board jurisdiction for protecting rights of telegraph workers under the Communications Act.
- Indianapolis (Region 11) disestablished as Regional Office.
- Board Member John M. Houston confirmed.

1944

- Indianapolis reestablished as Region 11.
- Alvin J. Rockwell designated as General Counsel.

1945

- Puerto Rico Labor Board designated as agent of the NLRB in Puerto Rico.
- Paul Herzog designated as Chairman.
- Board Member Paul M. Herzog confirmed.
- David A. Morse designated as General Counsel.

1946

- The year of the Subregions:
 - Memphis opened as Subregion 32.
 - El Paso opened as Subregion 33.
 - Winston-Salem opened as Subregion 34.
 - Indianapolis reduced from Region 11 to Subregion 35.
 - Portland opened as Subregion 36.
- Board Member James J. Reynolds, Jr. confirmed.
- Gerhard P. Van Arkel designated as General Counsel.

1947

- Supreme Court decided *Packard Motor Car.*, 330 U.S. 485.
- Congress passed Taft-Hartley over President Truman veto.
- Denver reduced from Region 22 to Subregion 30.
- Puerto Rico reduced from Region 24 to Subregion 38.
- Milwaukee opened as Subregion 31.
- Honolulu reduced from Region 23 to Subregion 37.
- Robert N. Denham designated as General Counsel.
- Board Members Abe Murdock and J. Copeland Gray confirmed.

CHAPTER THREE

THE TAFT-HARTLEY ACT
YEARS, 1947–1959





Textile Workers' Union meeting, 1947.

SWEEPING CHANGES

The changes brought by Taft-Hartley were sweeping, affecting the structure of the Board and its administration, as well as the unfair labor practice provisions and representation election provisions of the law.

Taft-Hartley defined six additional unfair labor practices, reflecting Congress' perception that some union conduct also needed correction. The amendments protected employees' Section 7 rights from restraint or coercion by unions, and said that unions could not cause an employer to discriminate against an employee for exercising Section 7 rights. The amendments also imposed on unions the same obligation as employers to bargain in good faith. They prohibited secondary boycotts, making it unlawful for a union that has a primary dispute with one employer to pressure a neutral employer to stop doing business with the first employer. And, they limited the circumstances under which employees could be required to join a union as a condition of employment. Finally, Taft-Hartley

prohibited unions from charging excessive dues or initiation fees and causing an employer to pay for work not performed.

The new law contained a "free speech clause," providing that the expression of views, arguments or opinions shall not be evidence of an unfair labor practice absent the threat of reprisal or promise of benefit.

Taft-Hartley also continued a provision by which the President could seek an 80 day cooling off injunction against strikes that were determined to affect the nation's security. These injunctions when obtained would permit additional bargaining and, if no agreement was reached, an election in which the employees could vote whether or not to accept the employer's last offer.

The Board was charged with conducting these elections and the first one was held in a unit of atomic energy employees at Oak Ridge Tennessee on June 2, 1948. The employees rejected the employer's last offer.

INDEPENDENT GENERAL COUNSEL CREATED

The Act created an independent NLRB general counsel to be appointed by the President, subject to Senate confirmation. The general counsel would act as a prosecutor and supervise the Agency's attorneys, except those on the staffs of individual Board members and the trial examiners.

For 12 years, management groups had criticized the Board's seeming dual role as prosecutor and judge. Under Taft-Hartley, the general counsel was to act as a prosecutor separate from and independent of the Board, which would continue its judicial functions.

The Board was expanded from three to five members and authorized to sit in panels of three members to discharge its responsibilities.

The Board's old review section, the group of lawyers who drafted the decisions for all the members, was abolished. Management groups had accused the section of having a pro-labor bias. Instead, the new law provided that each member would have a personal staff of attorneys to work on pending cases.

The first few years of Taft-Hartley saw some serious disagreements between Robert Denham, the first Taft-Hartley General Counsel, and the Board about the jurisdiction and authority of the new General Counsel position. Those disagreements culminated in President Truman requesting and then accepting Mr. Denham's resignation in 1950.

LABOR POLICY PRESERVED

Congress preserved the Wagner Act's national labor policy language encouraging collective bargaining, but added language that certain practices by unions that impair the free flow of commerce should be eliminated.

Section 7 was retained intact in the revised law, but new language was added to provide that employees had the right "to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment "



Robert N. Denham, first NLRB General Counsel under Taft-Hartley Act.

ICON OF THE NLRB: PAUL HERZOG

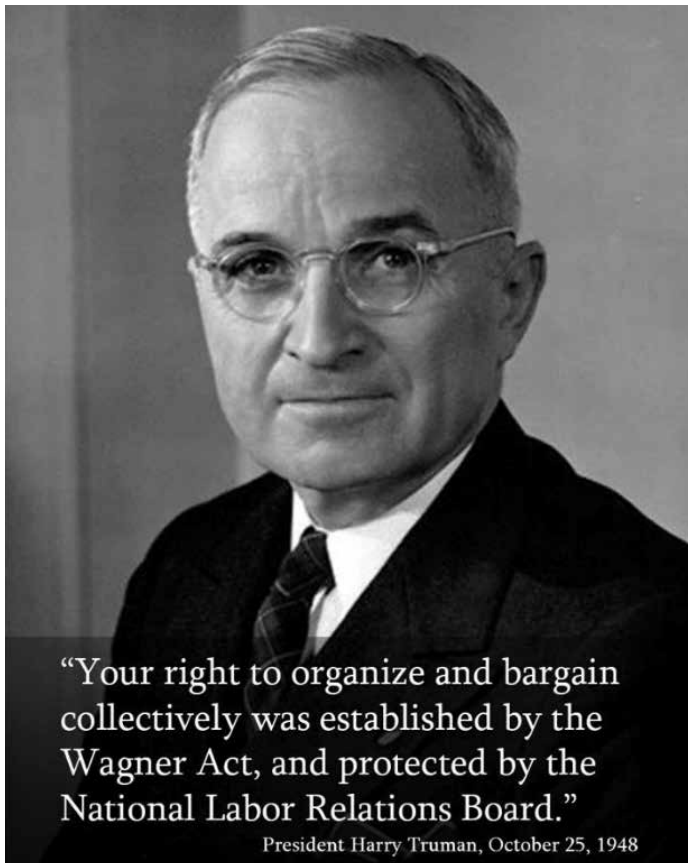
Paul Herzog was the third Chairman of the Board. He was appointed by President Truman in 1945 and served as Chairman under both the Wagner and the Taft-Hartley Acts. In his early years he was Assistant Secretary to the National Labor Board (NLB) in 1933 and 1934 and a Member of the New York State Labor Relations Board from 1937 to 1944.

Mr. Herzog opposed the Taft-Hartley amendments and testified against the legislation. He continued to oppose Taft-Hartley after passage and even encouraged President Truman to propose Reorganization Plan 12 which would have abolished the newly created independent Office of the General Counsel. Herzog was instrumental in the discharge of Robert Denham, the Board's first General Counsel by President Truman.

After his term ended in 1953, Paul Herzog became Assistant Dean of the Harvard Graduate School of Public Administration and later served as President of the American Arbitration Association.



Paul M. Herzog, Chairman



ELECTION PROVISIONS

Several significant changes were made for representation elections. Supervisors were excluded from bargaining units, and the Board had to give special treatment to professional employees, craftsmen and plant guards in determining units.

Congress also added four new types of elections. The first permitted employers faced with a union’s demand for recognition to seek a Board-conducted election. The other three enabled employees to obtain elections to determine whether to oust incumbent unions, whether to grant to unions authority to enter into a union shop agreement, or whether to withdraw union shop authorization previously granted. (The provisions authorizing the union shop elections were repealed in 1951).



Ford workers line up to vote in NLRB election at River Rouge plant, Dearborn, Mich., April 1942.



National Maritime Union seamen protest federal injunction restraining strike, June 1948.



Another River Rouge plant election, July 1948.

ICON OF THE NLRB: HENRY SHORE



Henry Shore

Henry Shore, from the time he graduated from the University of Pittsburgh School of Law with honors, wanted to work for the newly established Labor Board. He was, however, as cautious as he was brilliant, and he waited almost two years, until the Wagner Act was held to be constitutional in the *Jones & Loughlin Steel* case, which almost

poetically arose just a few miles from the newly established Pittsburgh Regional Office. He was quickly recognized as a star lawyer and given the most complex and difficult cases. World War II interrupted his service at the NLRB where he served in Europe, and in 1947, he was appointed Regional Director of the Pittsburgh Regional Office, a position that he held for 34 years, until December 1981.

The Pittsburgh Regional Office, under Henry Shore's leadership, quickly became known as the place to study and learn labor law, and many of the NLRB career experts served there, including Frank Parlier, Harold Datz and Jack Toner. Further, Peter Hoffman, Dan Silverman, Bob Miller and Gerald Fleischut, all of whom became Regional Directors, either began their careers or spent time in the Pittsburgh office.

Gerry Kobell, who succeeded Henry Shore and served as Regional Director for almost 27 years, and is now retired, said years after Henry Shore passed away that "his spirit still walks the office."



NLRB field examiner interviews prospective witnesses in unfair labor practice case, Cairo, Ill., Christmas, 1939.



NLRB's General Counsel Training Conference, class no. 3, Dec. 1958.

OPERATING UNDER THE TAFT-HARTLEY ACT

The functioning of the Board under the Wagner Act came to an end on August 21, 1947. On the following day, the Board entered its vastly increased domain of activity under the Labor Management Relations Act of 1947, or the Taft-Hartley Act.

In the first year of operation under Taft-Hartley, the Board was reorganized in accordance with the new law's requirements. The Board was increased from three to five members. The position of general counsel, now filled by Presidential appointment rather than by designation of the Board, was considerably altered in authority and responsibility. A new set of rules and regulations was adopted, and numerous changes were made in procedure and organizational structure.

After the reorganization, the Board members functioned as a tribunal for deciding cases upon formal records, without exercising responsibility for the preliminary investigation of petitions or charges. The General Counsel had final authority over the investigation of unfair labor practice charges, and, by delegation from the Board, authority for processing election petitions. The general counsel also exercised general supervision over the Agency's field employees.

Early in 1948, as policies and principles began to be established, the Board devised a system by which most of its cases could be decided by five panels of three members.

During the second half of fiscal year 1948, the majority of Board decisions were rendered by panels of the Board rather than by the full Board. Cases involving undecided questions of policy or law continued to be referred to the full Board for decision.

In the Board's first year of operation under Taft-Hartley (fiscal year 1948), an all-time high of 36,735 cases were filed with the Agency. This compared with the high of 14,909 cases filed in 1947 during the Wagner Act.

That first year under the amendments also saw unions winning 72.5 percent of the representation elections conducted by the Agency. This compared with a record of union victories in 81.4 percent of elections conducted during the Board's 12-year administration of the Wagner Act.



NLRB Officials Conduct Ballot Counting in alley next to Detroit Timken.



NLRB Field Examiner Tom Watson supervises a union-shop election, created by Taft-Hartley, at Delco Remy plant of General Motors in Anderson, Indiana, Feb. 1950. Voting took place in rented tents set up in a cornfield.



Photo of ballot counting in Winston-Salem Region.

ICON OF THE NLRB: JOHN TRUESDALE



John Truesdale

John Truesdale's career with the National Labor Relations Board was truly an extraordinary one. He started in 1948 in an entry level position. During the next five decades, he rose all the way to the top as a Board Member and, ultimately, as Chairman of the Board.

During that period, he served the Agency in so many capacities that he was affectionately referred to by insiders as the NLRB's "utility infielder." These positions included: Executive Secretary (20 years); Deputy Executive Secretary; Associate Executive Secretary; and Administrative Analyst in the Division of Operations Management, Office of the General Counsel.

Mr. Truesdale retired in 1996 after serving four separate stints as Board Member. However, he was asked to return in 1998 by President Clinton, who gave him a recess appointment and designated him to serve as Chairman. The following year he was confirmed by the unanimous vote of the Senate. He "re-retired" in 2001 at the age of 80.

For the decades of public service Mr. Truesdale devoted working for and on the National Labor Relations Board, he is justly regarded as a legend in the labor relations field.

He began his career with the Board in 1948, as a field examiner in Buffalo, NY, and ultimately received the President's Meritorious Rank Award for Senior Executives in 1988 and a lifetime achievement award at the "NLRA at 70: Where It Is and Where It Should Be" conference on May 25, 2005.



Ronald Reagan, seated right, and other leaders of Screen Actors Guild, 1952.

JURISDICTIONAL STANDARDS

In 1950, after years of controversy, the Board issued a series of unanimous decisions based on a long study of patterns emerging from prior decisions precisely setting forth the standards to govern its future exercise of jurisdiction. A work in progress, the Board later established new jurisdictional standards in 1954, revising them again in 1958. For a manufacturing company, the jurisdictional yardstick was set at \$50,000 in purchases, sales or services shipped, received or performed either directly or indirectly in interstate commerce as defined by the Board. For a retail firm, the test was \$50,000 in gross annual volume of business. Different standards were provided for other industries.



AFL President George Meany and CIO President Walter Reuther join hands at AFL-CIO unity convention, December 1955.



First photograph of Board in session, May 1955. From left, Philip Ray Rodgers, Abe Murdock, Chairman Guy Farmer, Ivar H. Peterson, and Boyd S. Leedom.



McClellan Committee hearing, May 1957. From left, Sen. John McClellan of Arkansas, Committee Counsel Robert F. Kennedy, Sen. John F. Kennedy of Massachusetts, and Sen. Carl Mundt of South Dakota.

MCCLELLAN COMMITTEE

During the middle and late 1950s, the labor movement was under intense Congressional scrutiny for corruption, racketeering and other misconduct. During 1955-1956 hearings, a Senate committee led by Senator Paul Douglas of Illinois uncovered abuses in the administration of union pension funds. This investigation led to a series of hearings in 1957-1958 led by the Senate Select Committee on Improper Activities in the Labor Management Field, known as the McClellan Committee.

Testimony revealed that some unions had forcibly interfered with their members' rights, violated democratic procedures in union elections, misappropriated union funds, failed to maintain proper records, and accepted bribes from management.

The McClellan Committee's investigation convinced Congress and the public that legislation was necessary to regulate the internal affairs of unions and eliminate corrupt practices. Accordingly, in 1959, Congress enacted the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).

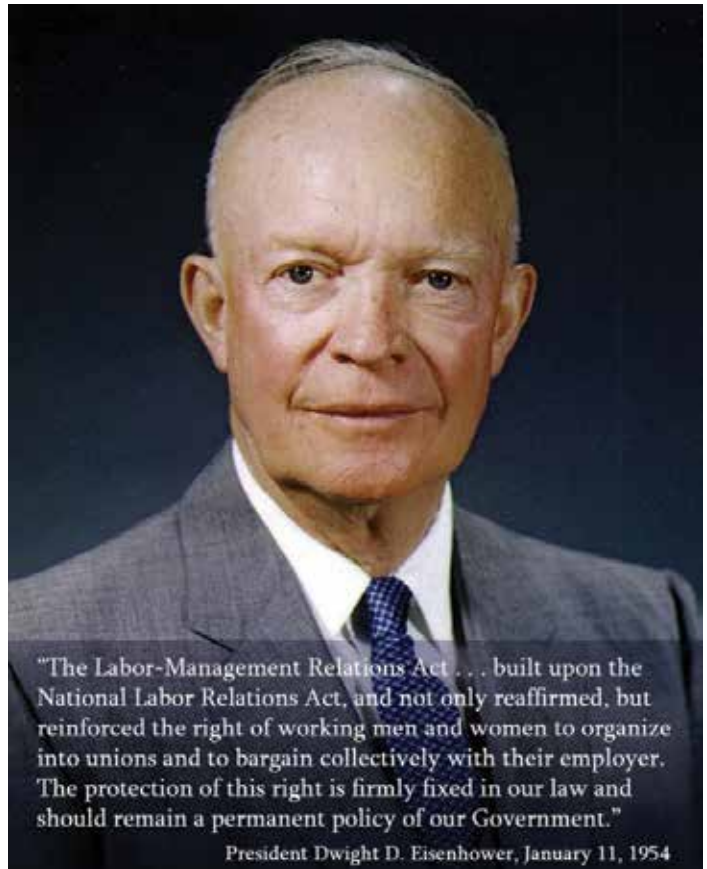


NLRB officials (standing) count 4,000 challenged ballots in election involving International Longshoremen's Association, New York City, 1953.

LANDRUM-GRIFFIN ACT

The new Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act) amended Taft-Hartley in these major respects:

- State courts and state labor relations boards were given jurisdiction over cases declined by the Board under its jurisdictional standards.
- Secondary boycott prohibitions were tightened and hot cargo agreements (under which employers committed themselves in advance to boycott any other employer involved in a dispute with the union) were outlawed.
- A new unfair labor practice made it unlawful for a union to picket for recognition or organizational purposes in certain circumstances.
- Pre-hire and seven-day union shop contracts were legalized for the construction industry.
- Permanently replaced economic strikers were given the right to vote in representation elections within one year of the beginning of the strike.
- The Board was authorized to delegate most of its authority to define bargaining units and to direct elections to its regional directors, subject to discretionary review. The law also provided for the appointment of an Acting General Counsel when the General Counsel's term expired.
- Other titles in the new law established a code of conduct guaranteeing certain rights to union members within their union, and imposed certain reporting requirements on unions, union officers, employers and consultants, which the law assigned for administration to the Department of Labor.



"Labor Reform Bill Approved" cover, *Washington Post*, September 3, 1959.



President Eisenhower delivers radio and television broadcast on need for Landrum-Griffin Act, August 1959.

ICON OF THE NLRB: JOHN FANNING



John Fanning

John Fanning is the only person to serve five terms as a Board Member. A graduate of Providence College and Catholic University Law School, John Fanning began his career in government with the Department of Labor. He moved to the Department of Defense where he was Director of Industrial Relations and where

he was selected as one of ten outstanding civil service employees by the National Civil Service League in 1956. In 1957, President Eisenhower appointed Fanning to the Board. He was thereafter renominated by Presidents Kennedy, Johnson, Nixon and Carter.

In 1977, President Carter designated John Fanning as Chairman and he served in that capacity until 1981. After his fifth term ended in December 1982, John Fanning retired from government and entered the private practice of law.

On the occasion of his fourth term, then NLRB Chairman Edward B. Miller (the Board's Poet Laureate) wrote an ode to Member Fanning on his reappointment.

ODE TO JOHN FANNING

On the Occasion of the Commencement of His Fourth Term
(With apologies to Edgar Allan Poe)

Once upon a midnight dreary, as my eyes were growing bleary
Pondering drafts and flags and case books of forgotten lore,
While I nodded, nearly napping, suddenly there came a tapping
As of someone gently rapping, rapping at my office door.
"Tis some visitor", I muttered, "tapping at my office door;"
Only this, and nothing more.

Ah distinctly I remember, 'Twas the middle of November
And a dozen draft dissents all lay about me on the floor;
When this sudden new sensation halted all my concentration
Came to me the realization- Fanning's term is nearly o'er!
Once again will cases deadlock? Once again will we be four?
Who can't agree? Oh what a bore!

Will we face one hiatus, while our customers berate us
"Cuz we can't get out the cases, waiting for one member more?"
Will Frank and Baisinger start napping, while Saks and Lubbers
go on rapping
Will Boester, Brownstone come a tapping, tapping at my office
door?
Oh not again, I groaned and muttered, I don't want us to be
four
Only four, and not one more.

But then sweet rationalization came to calm my aggravation
I looked to lessons of the past from history's forgotten lore –
For Eisenhower made him ours, JFK restored his powers,
LBJ n'er let John Tower show John Fanning to the door!
Republican or Democrat-er, it never even seemed to matter
They all gave him one term more!

"Tis well that I did thus remember, for now in 72's December
We know that John's about to enter his appointment number
four –
Now will he learn that Collyer's right, and that, resist it as he
might
Mallinkrodt won't let old crafts sever, – there is a "d" in 8(b)(4)?
Meanwhile the Chamber sighs and mutters, the NAM's chilled
to the core,
Quoth they, "It's Fanning-evermore!"

TIMELINE:

1948

- Robert Denham became first Section 3(d) General Counsel.
- Board Members increased to five.
- Abe Murdock and J. Copeland Gray became the first Taft-Hartley appointed Board Members.
- The year of the Resident Offices. Offices were opened for Region 10 (Atlanta). In June of this year, three Resident Offices, Columbia, SC, Knoxville and Chattanooga, TN were closed.
- Houston established as Subregion 39.
- Milwaukee disestablished as Subregion 31.

1949

- Board decided in *Times Square Stores Corporation*, 79 NLRB 361, that the final authority of the General Counsel as to unfair labor practice complaints precluded the Board from finding an unfair labor practice strike in the course of deciding a representation case.
- Supreme Court unanimously affirmed Board's holding that Employer violated Section 8(a)(3) by granting a wage increase in excess of offer made in negotiations. *NLRB v. Crompton Highland*, 69 S.Ct. 960.

1950

- General Counsel Robert Denham resigned at request of White House. He was succeeded by George J. Bott, who became a Trial Examiner at the end of his term in 1954.
- Puerto Rico reestablished as Regional Office (Region 24).
- Division of Trial Examiners opened branch office in San Francisco.
- Board discontinued deciding jurisdiction on a case-by-case basis and announced jurisdictional standards. See *Hollow Tree Lumber*, 91 NLRB 635.
- Board Member Paul L. Styles confirmed.

1951

- Tampa Resident Office closed and Miami Resident Office opened.
- Supreme Court decided *Denver Building & Construction Trades Council*, 341 U.S. 675, *Gullett Gin Company*, 340 U.S. 361, and *International Rice Milling*, 341 U.S. 665.

1952

- Phoenix was opened as a Resident Office of Los Angeles.
- Winston-Salem elevated to status of Regional Office (Region 11) covering North and South Carolina.
- Supreme Court decided *American National Insurance Co.*, 343 U.S. 395.
- Board Member Ivar H. Peterson confirmed.

1953

- Guy Farmer designated as Chairman succeeding Paul Herzog.
- Supreme Court decided *Ford Motor Co. v. Huffman*, 345 U.S. 330.
- Board Member Philip Ray Rodgers confirmed.

1954

- Board revised its jurisdictional standards. See *Breeding Transfer Co.*, 110 NLRB 492.
- Supreme Court decided *Radio Officers Union v. NLRB*, 347 U.S. 17, and *Ray Brooks v. NLRB*, 348 U.S. 96.
- Board Member Albert C. Beeson confirmed.

1955

- Theophil (Ted) Kammholz became General Counsel on March 29 succeeding George Bott whose term ended in December 1954.
- Boyd Leedom became Board Member and Chairman succeeding Guy Farmer.
- Board Member Stephen S. Bean confirmed.

1956

- Supreme Court decided *Mastro Plastics*, 350 U.S. 270, *Babcock & Wilcox Co.*, 351 U.S. 105 and *Truitt Mfg. Co.*, 351 U.S. 149.

1957

- Ted Kammholz resigned as General Counsel and was replaced by Acting General Counsel Kenneth McGuiness.
- Jerome Fenton was later appointed and confirmed as General Counsel in 1957.
- Two new Regional Offices established:
 - Tampa – Region 12.
 - Newark – Region 22.
- Little Rock established as a Resident Office of New Orleans.
- Supreme Court decided *Guss v. Utah Labor Relations Board*, holding that there can be a “no man’s land” when NLRB declines jurisdiction over employer who is in commerce.
- Board Members John Fanning and Joseph Alton Jenkins confirmed.

1958

- Board revised jurisdictional standards as “a consequence of” *Guss v. Utah*. See *Siemons Mailing Service*, 122 NLRB 81.
- Supreme Court decided *Wooster Division of Borg – Warner*, 356 U.S. 342.

1959

- Houston elevated to status of Region 23.
- Landrum-Griffin amendments enacted.
- Supreme Court decided *Cabot Carbon Co.*, 360 U.S. 203 and *San Diego Building Trades Council v. Garmon*, 359 U.S. 236.
- Senator John F. Kennedy speaks to Allegheny Bar Association about delays at NLRB.
- Stuart Rothman began his term as General Counsel.

CHAPTER FOUR

MILESTONES: 1960–1995





NLRB Election involving Teamsters, Philadelphia, November 1962. NLRB Agent Louise Morgan is seated at left.

IMPROVED CASE HANDLING

On December 10, 1959, then Senator John F. Kennedy in an address to the Allegheny County Bar Association in Pittsburgh, Pennsylvania, complained of the delay experienced in processing of matters before administrative agencies. As an example of the delay and of the adage, "Justice delayed is justice denied," Senator Kennedy cited particularly the delays experienced in the processing of a case before the National Labor Relations Board, and he likened NLRB proceedings to the English Chancery Court proceedings portrayed in Charles Dickens's *Bleak House* case of *Jamdyce vs. Jamdyce*.

Senator Kennedy's pointed comments made a great impression on then General Counsel Stuart Rothman. He accelerated an effort already underway in the Office of the General Counsel to better manage the caseload and expedite case processing.

General Counsel Rothman appointed a committee of career Agency staff to develop a case management system. The Committee was chaired by former Associate General Counsel H. Stephen Gordon and included then Assistant General Counsel Joseph E. DeSio. Out of their deliberations came the "time target" system. That system has, of course, been modified over the years. In varying forms, it has been expanded to all aspects of Agency casehandling.



NLRB Senior Field Examiner Katherine Neel explains electioneering rules to Teamsters Local 107.



Meeting in General Counsel's "Chart Room," 1961. General Counsel Stuart Rothman is seated, center.

The case management system has served the Agency and public very well. For example, in 1958 the median age of cases pending under investigation in the field was 58 days and the merit factor – the percent of unfair labor practice cases deemed meritorious upon completion of investigation was 20.7%. In 2014, the median age of cases under investigation was less than 36 days and the merit factor was 36.4%. Thus, as the time taken for investigations has been reduced, the percentage of cases found meritorious in those investigations has increased substantially.



President John F. Kennedy addressing the AFL-CIO Fifth Constitutional Convention, New York City, Nov. 15, 1963.



ILGWU workers celebrating victory at Lackawana Dress Co., Scranton, Pa., 1960.

ICON OF THE NLRB: HOWARD JENKINS, JR.

Howard Jenkins, Jr. was the first African-American member of the Board. He served four consecutive terms from his appointment in 1963 by President John F. Kennedy until 1983. He earned his B.A., and L.L.B. at the University of Denver, 1941. He then served as a Regional Attorney with the National War Labor Board. He was later awarded an honorary Doctor of Laws degree from the University of Denver in 1973.

Member Jenkins taught labor law at Howard University from 1946-1956. He became Assistant Commissioner of the Bureau of Labor Management Reports in 1962 – the highest ranking African-American attorney in the federal government at the time. Throughout his tenure with the Board, Member Jenkins championed the rights of minorities under the Act by encouraging recognition of discrimination against minorities and women as unfair labor practices.



Howard Jenkins, four term Board Member.

NLRB EMPLOYEES' OWN UNIONS – THE NLRBU AND NLRBPA – RECOGNIZED

Shortly after passage of the Act, NLRB employees across the occupational spectrum began a long pursuit of their own exclusive representation and collective bargaining. Beginning in 1939, two unions representing NLRB employees merged and became the unaffiliated National Labor Relations Board Union (NLRBU). The Union interceded on behalf of attorneys, examiners, clericals (now called administrative professionals) and custodians – in those days, custodians were directly employed by the Agency – in the Field and in Headquarters and, among other things, won upgrades for some employees.

After years of a bargaining relationship, the Agency and NLRBU met at the end of 1946 to begin negotiations for a national agreement. The parties were able to reach several tentative agreements; however, they came to an impasse on the issue of what level attorneys could be promoted to. On November 17, 1947, General Counsel Robert Denham met with the NLRBU representatives and told them that he would not agree to anything, that contracts didn't have a place in the federal government, and that he would make personnel decisions unilaterally. For 15 years after that meeting, there is no record of any further negotiations between the Board and the NLRBU.

NLRB employees took a step closer to full representational rights in early 1962 when President John F. Kennedy signed Executive Order 10988, which authorized employees of the federal government to organize. In April 1963, the National Labor Relations Board Professional Association (NLRBPA), a separate union from the NLRBU, was certified as the exclusive representative for units of attorneys working in the Washington office of the Board and the General Counsel. On November 27, 1964, the NLRBU was certified as the exclusive representative of two separate units in the field (except Region 8), one for field agents and one for administrative professionals. By 1975, the NLRBU was certified as the exclusive representative of five units and represented all field agents and administrative professionals in the field and all administrative professionals in Washington. In 2010, following lengthy legal proceedings, the NLRBU bargaining units were consolidated into two units. One unit includes all field agents and field administrative professionals and all HQ GC-side administrative professionals. The other unit includes all Board-side administrative professionals, which includes those in the ALJ offices.

From the 1960s until the present, the NLRBU and the NLRBPA have negotiated many benefits that employees enjoy today, such as grievance and arbitration procedures; flexible, telecommuting, and compressed work schedules (5-4-9); the Washington and Regional Office exchange programs; the Bridge program; transit subsidies; child care subsidies; and work-at-home opportunities.

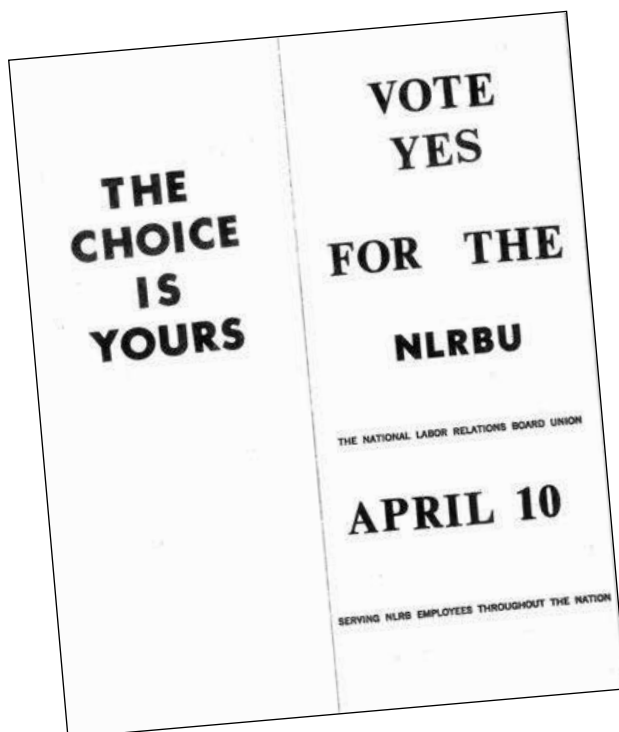


Photo of NLRBU flyer from 1960s professional staff election.

THREE DECADES, 25 MILLION VOTES

The NLRB reached a milestone in industrial democracy in January 1967 when the 25,000,000th vote was cast in one of its secret ballot elections. The election occurred at a plant in Woodbridge, New Jersey, in which employees chose the United Steelworkers of America to represent them in bargaining. Vice President Hubert H. Humphrey presided at a ceremony commemorating the occasion.



Vice President Hubert H. Humphrey.



Ceremony celebrating 25 millionth vote cast in NLRB elections, March 1967. From left, AFL-CIO President George Meany, Leonard P. Scheno of Steelworkers, and William F. May of National Association of Manufacturers.



“The National Labor Relations Board seeks to uphold the right of collective bargaining - a right upon which we, as a nation, base our hopes for peaceful and satisfactory labor-management relationships.”

President John F. Kennedy, April 13, 1961

ICONS OF THE NLRB: VICTORIA A. AGUAYO, MARY Z. ASSEO, RAY A. JACOBSON AND JOSEPH H. SOLIEN

These four Regional Directors began their NLRB careers as support staff professionals and worked their way through various professional positions until they became Regional Directors and Senior Executives. They served the Agency well and their careers exemplify the upward mobility opportunities that so many employees have had over these 80 years.

Victoria Aguayo began her career with the Board in Los Angeles (Region 21) as a GS-3 Clerk-Steno on June 10, 1968. She became an Interpreter Translator in 1972, a Field Examiner in 1974 and a Supervisory Examiner in 1981. In 1983 she was appointed Assistant to the Regional Director and then in 1985 was promoted to Regional Director of Region 21. Ms. Aguayo retired on March 7, 2008.

Mary Zelma Asseo was hired as a GS-3 Clerk-Steno in Region 24 (Puerto Rico) on June 2, 1959. She was promoted to the position of Secretary to the Assistant Regional Attorney in 1962. Upon graduating from law school in 1967, Ms. Asseo resigned to go into private practice. She worked briefly as an attorney for a private law firm, and then served in the Puerto Rican government as an assistant to the Governor for labor affairs. Thereafter, she worked for the US DOL Solicitor's Office in San Juan and then returned to the Agency in 1983 as Regional Director. She retired in 2000.

Raymond A. Jacobson came on board on June 7, 1937 as a clerical employee in Headquarters. Five months later, he transferred to the Chicago office where he continued as a clerk until he was made an Examiner Trainee in 1943. He became an Assistant Field Examiner shortly thereafter. In 1944 and 1945 he served in the military, returning to the Agency in January 1946 as a Field Examiner. In 1959 he became Compliance Officer and then a Supervisory Examiner in 1966. In 1967, Ray transferred to the Subregional Office in Peoria as Officer-in-Charge. He was promoted to Regional Director in Region 26, Memphis, in May 1975. Ray retired in August 1980.

Joseph H. Solien began his career as a mail room clerk in the Division of Administration in 1948 in Washington. In December 1950, he transferred to St. Louis to become a Field Examiner Trainee and in 1955 a Field Attorney. Joe became a Supervisory Attorney in 1959 and then returned to the Examiner ranks in 1961 when he became Assistant to the Regional Director. He was appointed Regional Attorney in 1966 and then Director in St. Louis in 1967. Joe retired in June 1993.



Victoria A Aguayo



Mary Z. Asseo



Raymond A. Jacobson



Joseph H. Solien

JURISDICTION EXPANDED

Congress amended the Act in 1970 to place the U.S. Postal Service under the NLRB's jurisdiction. The Postal Reorganization Act substituted an arbitration procedure for the right to strike guaranteed in Taft-Hartley.

Congress widened the NLRB's responsibilities again in 1974, giving the Agency jurisdictional authority over nonprofit hospitals and nursing homes. Previously, the law had excluded such health care facilities and their employees. On its own discretion, the NLRB further expanded its jurisdiction to include major league baseball (1969), private, nonprofit colleges and universities (1970), foreign government-owned corporations doing business in the U.S. (1977), law firms (1977), and professional soccer (1978).



Hospital Workers Local 1199 signed "V" for victory in 1969 election, New York City.



Postal Strike.

NLRB ICON: JOHN E. HIGGINS JR.

John E. Higgins Jr., most recently, was the Deputy General Counsel of the NLRB from 2001 until his retirement in 2010. He joined the NLRB in 1964 in the Memphis Regional Office after graduating from Boston College (A.B.) and Boston University School of Law. He served as Supervisory Attorney in Memphis and then in the Regional Advice Branch. In 1970 he joined the Division of Operations as Deputy Assistant General Counsel. Thereafter he was appointed Deputy Associate GC in Advice and then in Operations.

In 1975, John was designated as Deputy General Counsel where he served until he was appointed Board Member by President Reagan in 1988. Thereafter, he became the Board's Solicitor, its Inspector General and then was appointed Board Member by President Clinton. John later served two brief terms as Acting General Counsel upon appointment of President Bush in 2001. John has been President of the College of Labor and Employment Lawyers and the Association of the Labor Relations Agencies. He was Editor in Chief of the 4th, 5th, and 6th editions of the Developing Labor Law and is currently working on the 7th edition. He has been a Distinguished Lecturer at Catholic University of America's Columbus School of Law from 1981 to the present.



John Higgins Jr. being sworn in as Acting General Counsel by his father, John Higgins, an arbitrator and Notary Public, with his mother looking on.

ADMINISTRATIVE LAW JUDGES

Since the Act's creation, someone had to conduct unfair labor practice hearings for the Board. In the early days of the Act, those people were called trial examiners, and their decisions were called intermediate reports. Before the Administrative Procedure Act (APA) of 1946, draft intermediate reports were submitted to the chief trial examiner for review before issuance. During Board deliberations on exceptions, trial examiners were expected to appear before the Board to defend their reports.

Initially, the Board utilized per diem trial examiners, who were stationed in Washington and traveled by train to their hearings, spending weeks, including weekends, on the road. The per diem rate was \$11.73 per day, plus "railroad fare from Washington to the point of hearing and return to Washington." In 1938, the Board accepted the recommendation of George Pratt, its first chief trial examiner, to do away with the per-diem employees and hire full-time, salaried trial examiners.

In 1978, Congress changed the title of trial examiner to administrative law judge. The selection of judges is currently supervised by the Office of Personnel Management. Applicants are required to go through a rigorous competitive examination before being hired by an agency.

Since its inception, the Board has employed some 350 individuals as trial examiners or judges. The high-water mark was early 1981, when the Board had 117 judges. Today, the Board has about 35 administrative law judges.



NLRB trial Examiner William Ringer inspects lead and zinc mine shaft, Picher, Oklahoma, 1938.



Administrative Law Judge Conference, Chicago, IL, August, 2014.

LANDMARK CASES

After almost a quarter century of litigation, the Board in December 1980 settled one of the most protracted and complex labor disputes with a back pay agreement with Milliken & Co., formerly Darlington Mills.

The Board found the company had unlawfully closed a textile mill in Darlington, S.C., in 1956, following an election victory by the Textile Workers. The 1962 decision twice reached the Supreme Court and produced a landmark ruling that a corporation cannot legally shut down one of its plants to discourage unionism at its other plants.

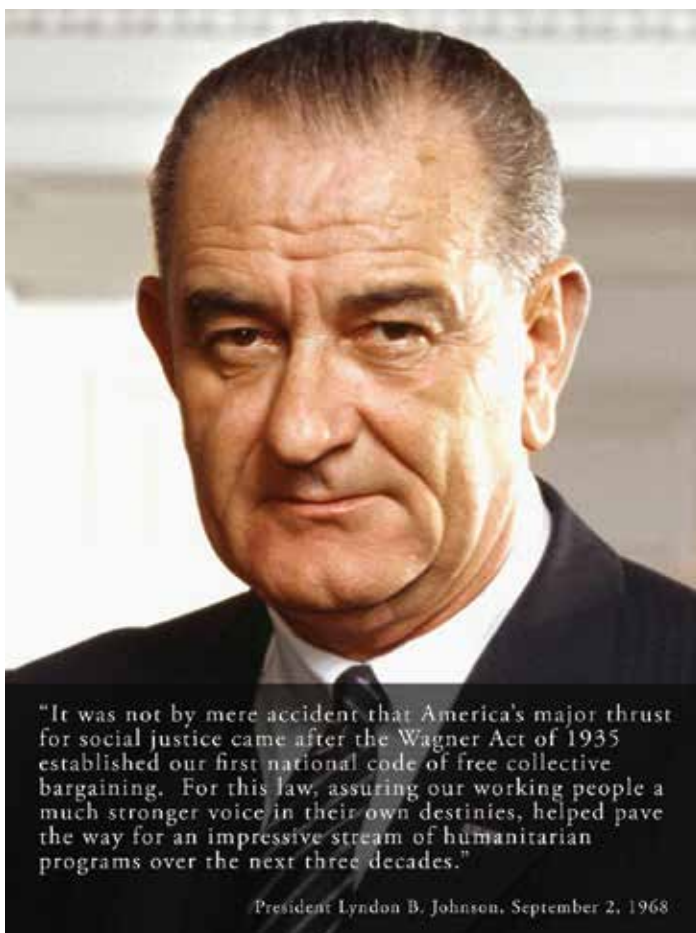
Rivaling the Darlington Mills case in longevity and complexity was the 20-year legal battle between J.P. Stevens & Co. and the Amalgamated Clothing and Textile Workers Union. The NLRB brought the matter to a close in 1983, with a settlement agreement resolving all outstanding unfair labor practice cases among the parties. The dispute had been over unionization of the company's textile plants.

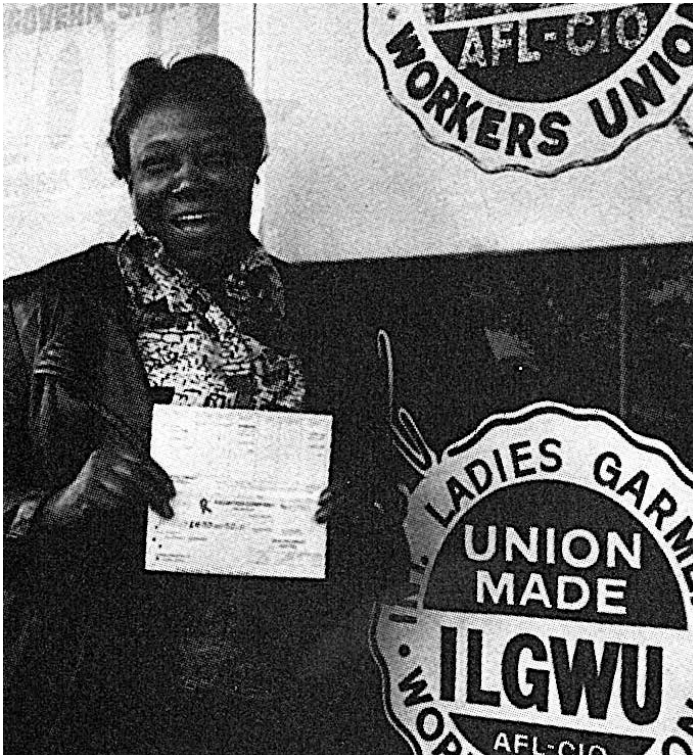


American Cyanamid worker R.A. Bonura (second from left) receives nearly \$150,000 in back pay and interest under 1980 settlement.

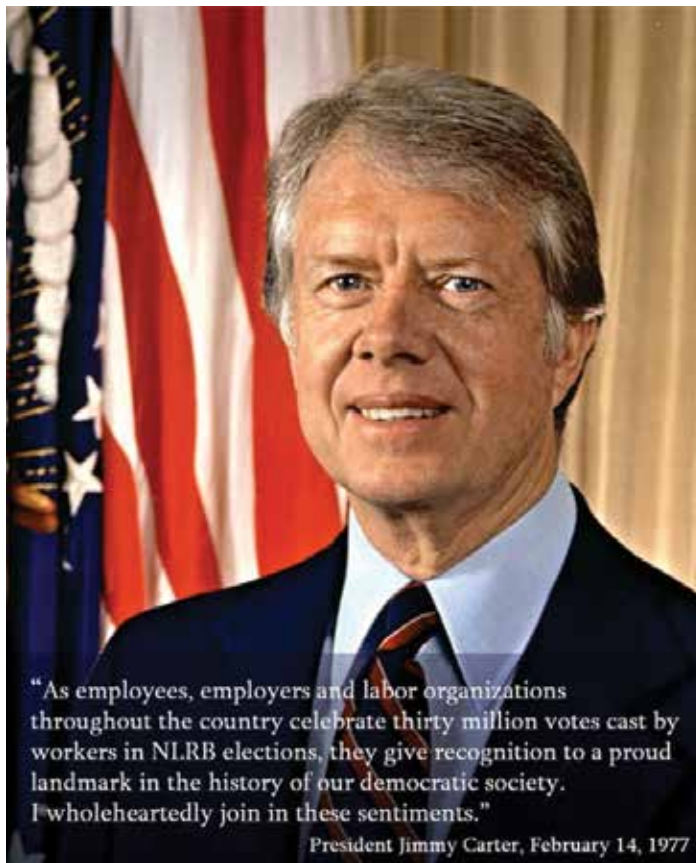


Darlington Mills plant, Darlington, S.C., shut down in 1956.





Kellwood worker is happy about her backpay check, Little Rock, Ark., 1976.



"As employees, employers and labor organizations throughout the country celebrate thirty million votes cast by workers in NLRB elections, they give recognition to a proud landmark in the history of our democratic society. I wholeheartedly join in these sentiments."

President Jimmy Carter, February 14, 1977

ICON OF THE NLRB: BETTY SOUTHARD MURPHY



Betty Murphy, former Chairman

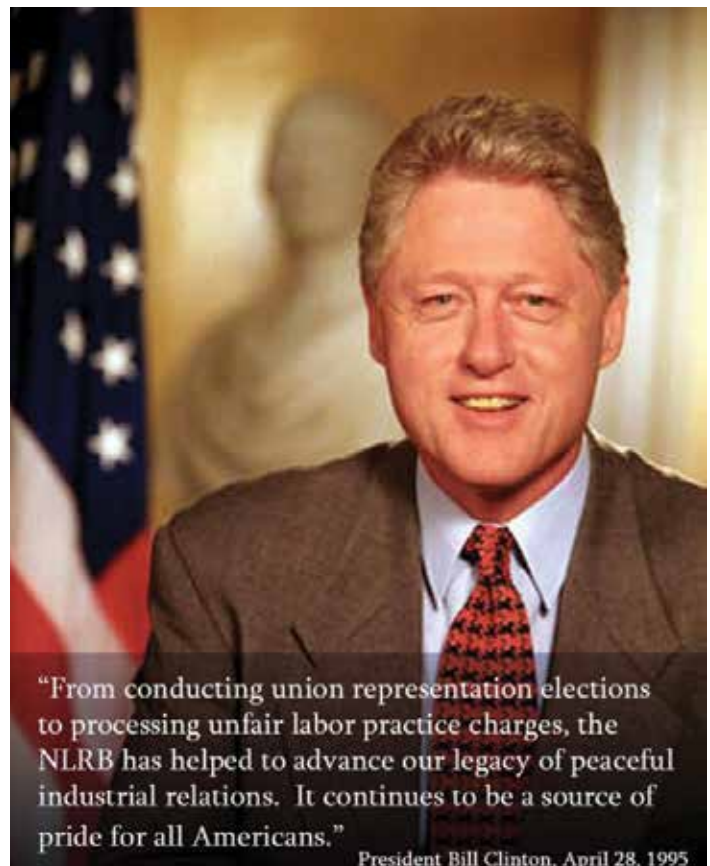
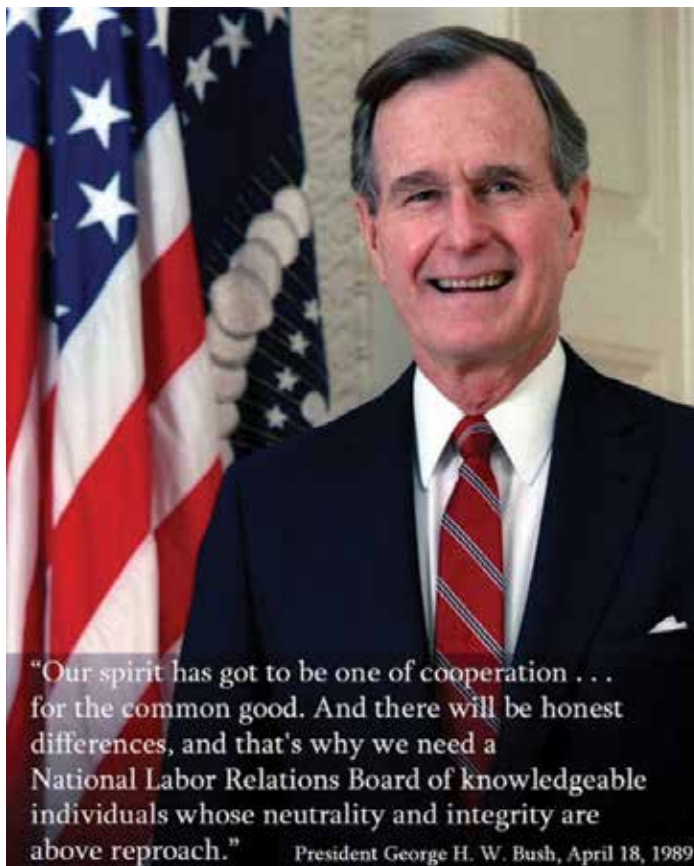
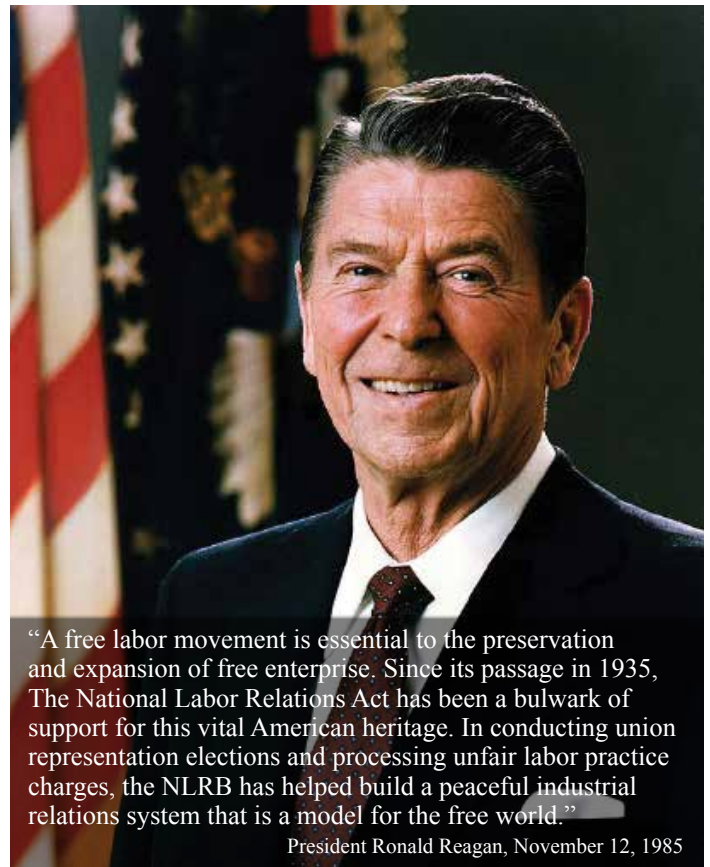
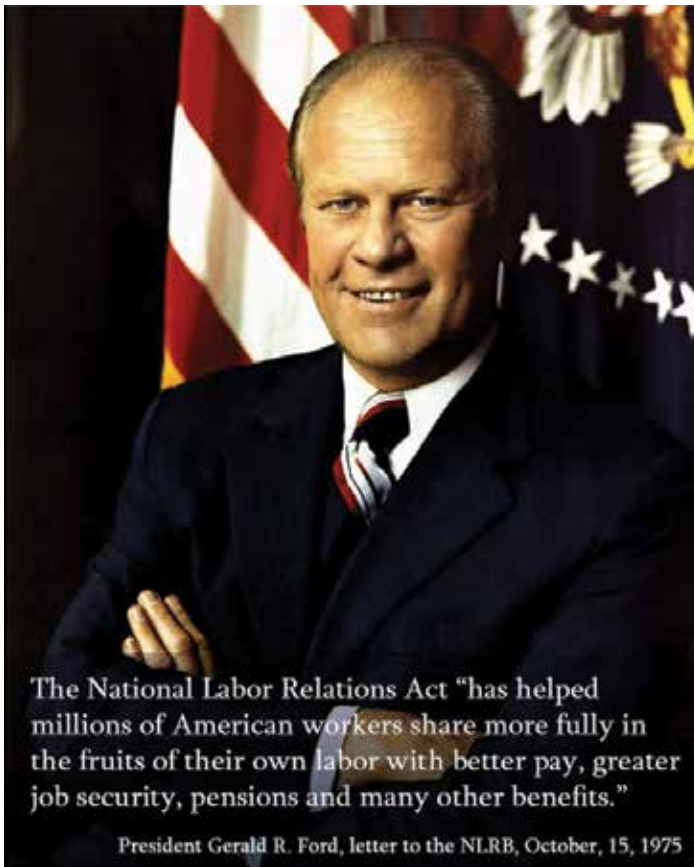
Betty Murphy was the first woman to be appointed to the Board. That appointment by President Ford in February 1975 marked Betty's return to the Agency. She had joined the NLRB in 1958 after her graduation from American University Law School and stayed for about 18 months. She left to enter private practice where she represented

both unions and employers. She also was involved in journalist free speech cases as an attorney for various journalists including political columnist Jack Anderson.

Betty returned to government as Wage and Hour Administrator of the Department of Labor and then accepted the appointment as a Board Member and Chairman in 1975. Almost immediately, she created a Task Force of union and management attorneys in a very successful effort of obtaining suggestions about streamlining Agency operations.

Betty served as Chairman until 1977 when John Fanning was appointed Chairman. She completed her term in 1979 and joined the law firm of Baker & Hostetler in Washington.

Betty received a number of other Presidential appointments over the years including appointment as a Member of the Bicentennial Commission on the U.S. Constitution.



CELEBRATING FIFTY YEARS

The NLRB's 50th birthday was observed at an open house in July 1985 in Washington, D.C.



1. Former General Counsel Rosemary Collyer and former Associate General Counsel Stephen Gordon
2. Rosemary Collyer and former Chairman Donald L. Dotson and former Member Marshall B. Babson
3. Attorney Arnold Perl, former Member Peter Walther and former Chief Administrative Law Judge Melvin Wells
4. The Board and General Counsel cutting the cake
5. Front of the Board Offices at 1717 Pennsylvania Ave.
6. Former Member John "Doc" Panello and former Chairman Donald L. Dotson
7. Former General Counsel John Irving and former Deputy General Counsel John Higgins
8. Former General Counsels Stuart Rothman and Arnold Ordman with Norman Somers, former ALJ
9. Former General Counsel Rosemary Collyer and Former Chairman Guy Farmer
10. Former General Counsel William A. Lubbers



ICON OF THE NLRB: ROSEMARY M. COLLYER



NLRB General Counsel
Rosemary M. Collyer

Judge Rosemary M. Collyer was the first and only woman to serve as General Counsel of the National Labor Relations Board (1984-1989). Before her appointment, she served as Chairman of the Federal Mine Safety and Health Review Commission from 1981 to 1984. She graduated from the University of Denver College of Law (1977) and Trinity College in Washington, DC (1968). She practiced law with Sherman & Howard in Denver, Colorado, before her government service began.

Judge Rosemary M. Collyer was appointed to the United States District Court in January 2003. Prior thereto she had been a partner in the Washington, DC law firm of Crowell & Moring, LLP from 1989 to 2003. Judge Collyer is a member of the College of Labor and Employment Lawyers and the American Bar Association Foundation.

RULEMAKING

On July 2, 1987, the Board announced its decision to engage in rulemaking on a major substantive issue by publishing in the Federal Register a "Notice of Proposed Rulemaking on Collective-Bargaining Units in the Health Care Industry."

The Board's new rulemaking venture encompassed 14 days of hearings, in Washington, Chicago, and San Francisco. The Board heard from 144 witnesses and over 1,800 commentators. After issuing a Second Notice of Proposed Rulemaking, the Board issued its First Rule on April 21, 1989. After lengthy litigation, the Supreme Court finally approved the Board's Rule by unanimous vote on April 23, 1991. Since then, the long-disputed question of appropriate units in acute care hospitals has been largely put to rest.

On December 15, 2014, the Board issued a final rule amending its representation case procedures to enable the Board to better fulfill its duty to protect employees' rights by fairly, efficiently and expeditiously resolving questions of representation. The final rule was the culmination of a rulemaking process that began with a Notice of Proposed Rulemaking on June 22, 2011. The Board accepted tens of thousands of comments for a total of 141 days, and held 4 days of oral hearings with questioning by Board members.

THE "PENNSYLVANIA WOMEN"

Back in the day, the NLRB regularly recruited for Headquarters' administrative and clerical positions throughout the Washington, D.C. area. In addition, for a decade or so, from approximately 1966 through 1977, the Agency focused such recruitment efforts in central Pennsylvania. This area was chosen primarily because the local economy did not offer much promise or opportunity to young people who were interested in entering the job market directly out of high school.

The first recruitment team of Personnel Specialists (Human Resources Specialists) to visit the area was led by Claude Albright, and the last recruitment team to go to central Pennsylvania was led by Anthony (Tony) Wonkovich. Other team members, whose names come to mind, include Maurice Brice, Arlene Direnzo, Emma Johnson, Mary LaMontagne, Elmer Lovell and Frankie Shannon Harris.



The NLRB's Rulemaking success before the Supreme Court in 1991 was front page news.

PROFESSIONAL SPORTS

In 1995, the NLRB ventured into the labor relations arena of professional sports over major league baseball. Bringing joy to baseball fans nationwide, the NLRB was widely credited with ending the 1995 baseball strike by persuading then-District Court Judge Sonya Sotomayor to issue a 10(j) injunction requiring the owners to withdraw their unilaterally imposed changes to the negotiated system of setting wages in baseball. For granting the Board's 10(j) request, President Obama later referred to Justice Sotomayor as the judge who "saved baseball."

In professional football, the NLRB secured a \$30 million back pay settlement in 1994, arising from the players' strike in 1987.

The central charge by the National Football League Players Association was that the teams had unlawfully refused to allow the 1,300 returning striking players to participate in the games immediately following the end of the strike.

Other NLRB sports cases have involved soccer, basketball, and jai alai. In each case, the Agency has attempted to level the playing field—so to speak—so that the collective bargaining process could proceed fairly.

Professional athletes, like other employees, are entitled to the Act's protection. The Board is currently considering whether collegiate football players at Northwestern University are employees also entitled to union representation.



The NLRB was page 1 news with its pivotal role in the 1995 baseball strike. This clip is from The New York Times cover story of March 27, 1995.



Justice Sotomayor is escorted onto the field by New York Yankees catcher Jorge Posada to throw out the ceremonial first pitch before the New York Yankees game against the Boston Red Sox at Yankee Stadium on Sept. 26, 2009.



After a press conference on September 13, 1994, announcing the NLRB's \$30 million back pay settlement in the NFL case, the Agency's settlement team posed with union representatives. From left, Region 5 Supervisory Attorney Eric Fine, Special Counsel Harvey Holzman, Regional Director Lous D'Amico, Compliance Officer Elizabeth Tursell, NFL Players Association President Gene Upshaw, Deputy Assistant General Counsel Howard Perstein, NFLPA Staff Counsel Tim English, and General Counsel Fred Feinstein.

GREYHOUND BUS LINES STRIKE

In the NLRB's biggest cases, the efforts of the regional offices are coordinated by the General Counsel with one of the offices playing the lead role. This was the situation in the Agency's nationwide unfair labor practice case against Greyhound Bus Lines.

The case began in 1990 when the union and company were unable to agree on contract terms. The union struck and among other charges alleged the company had implemented its final bargaining proposals before reaching a valid impasse. It also alleged that the company had unlawfully terminated approximately 300 employees throughout the U.S. because of their activities on behalf of the union. The company alleged that the union had engaged in picket line misconduct. Those charges were consolidated and settled on a nationwide basis by Region 28 in Phoenix, Arizona.

The General Counsel launched a nationwide investigation by 30 of the 33 regional offices, which subsequently led to the issuance of a complaint. The regions investigated and processed over 175 unfair labor practice cases filed by both sides nationwide. The complaint allegations were heard by Judge Robert A. Giannasi. Region 30 in Milwaukee, Wisconsin, led the three-year litigation effort. A number of Washington NLRB divisions also were involved.

The parties eventually reached agreement on new contract terms in 1993, and agreed to settle many of the charges.



Greyhound picketers at Port Authority in New York during the strike by the Amalgamated Council of Greyhound Local Unions.



The signing ceremony of the Greyhound settlement, April 20, 1993. Pictured are (from left) seated: Greyhound President Frank Schneider, NLRB General Counsel Jerry M. Hunter, Amalgamated Transit Union President James La Sala; standing: Federal Mediation and Consolation Service Director Bernard DeLury and Secretary of Labor Robert Reich.

ICON OF THE NLRB: MELVIN J. WELLES



Melvin J. Welles

In 1993, Mel Welles retired from the Board after 47 years of service. During those years he served in the Appellate and Supreme Court Branch and was Chief Counsel to Board Member Sam Zargoria from 1965 to 1970. In 1970, he became an Administrative Law Judge and in 1981 was designated as Chief Administrative Law Judge.

Mel was a graduate of Rutgers University and of the University of Pennsylvania Law School. He was an outstanding lawyer and jurist. Known by all for his quick wit, he was an avid poker player and a contract bridge life master. In 1984, he participated as a member of the Congressional Bridge team that journeyed to London to play members of the British Parliament.

Mel was well known for his love of baseball and the Yankees. So it was no surprise when, as Chief Judge, he assigned himself to the 1981-82 unfair labor practice case arising out of the baseball strikes. The case settled before he issued his decision, prompting him to say none but he knew what the decision would have been.

TIMELINE:

1960

- Indianapolis elevated to status of Region 25.
- Memphis elevated to status of Region 26.
- Supreme Court decided *Deena Artware*, 361 U.S. 398 and *Local Lodge 1424 (Bryan Manufacturing Co.)*, 362 U.S. 411.
- Time Target program developed and implemented by General Counsel Rothman.
- Board Member Arthur A. Kimball confirmed.

1961

- Supreme Court decided *Teamsters Local 357* (hiring halls were not per se illegal.) 365 U.S. 667 and *ILGWU (Bernard Altman)*, 366 U.S. 731.
- Frank McCulloch began his terms as Chairman.
- President Kennedy proposes Plan 5 for Board (certiorari type authority). Plan defeated in House.
- Pucinski Committee hearings held by House Labor Committee.
- Albuquerque established as Region 28.
- Jacksonville, FL Resident Office (Region 12) opened.
- Regional Director Gerald Brown (R-20) appointed Board Member.

1962

- Supreme Court decided *NLRB v. Katz*, 369 U.S. 736 and *NLRB v. Washington Aluminum*, 370 U.S. 9.
- Albany, NY (Region 3) Resident Office opened.

1963

- Supreme Court decided *McCulloch v. Sociedad National*, 372 U.S. 10, *Erie Resistor*, 373 U.S. 221 and *NLRB v. General Motors*, 373 U.S. 734.
- Arnold Ordman began the first of his two terms as General Counsel.
- Board Member Howard Jenkins, Jr. confirmed.

1964

- Supreme Court decided *Boire v. Greyhound*, 376 U.S. 473; *NLRB v. Servette*, 377 U.S. 46, *NLRB v. Burnup & Sims*, 379 U.S. 21 and *Fibreboard Paper v. NLRB*, 379 U.S. 203.
- Board decided *General Electric (Boulwarism)*, 150 NLRB 192.
- Milwaukee established as Region 30.
- Peoria opened as Subregion 38 (Region 13).

1965

- Brooklyn established as Region 29.
- Los Angeles established as Region 31.
- Supreme decided *NLRB v. Brown Food Stores*, 380 U.S. 278; *American Ship Building v. NLRB*, 380 U.S. 300 and *Textile Workers v. Darlington Mfg.*, 380 U.S. 263.
- Board Member Sam Zagoria confirmed.

1966

- Board decided *Excelsior Underwear*, 156 NLRB 1236.
- Supreme Court decided *Linn v. Plant Guard Workers*, 383 U.S. 553.

1967

- Nashville Resident Office opened (Region 26).
- Supreme Court decided *NLRB C&C Plywood*, 385 U.S. 421; *NLRB v. Acme Industrial*, 385 U.S. 432; *NLRB v. Great Dane Trailers*, 388 U.S. 26 and *Vaca v. Sipes*, 386 U.S. 171.

1968

- Supreme Court decided *NLRB v. IUMSWA*, 391 U.S. 418 and *Musicians v. Carroll*, 391 U.S. 99.

1969

- Supreme Court decided *NLRB v. Gissel Packing*, 395 U.S. 575; *Scofield v. NLRB*, 394 U.S. 423, *NLRB v. Wyman-Gordon*, 394 U.S. 759; *NLRB v. Rutter-Rex*, 396 U.S. 258.

1970

- Edward Miller designated as Chairman.
- Supreme Court decided *H.K. Porter v. NLRB*, 397 U.S. 99.
- Regional Director Ralph Kennedy (R-21) appointed Board Member.

1971

- Board decided *Collyer Insulated Wire*, 192 NLRB 837.
- Eugene Goslee appointed Acting General Counsel – first such appointment under the Landrum Griffin amendments to Section 3(d) in 1959.
- Peter G. Nash nominated and confirmed as General Counsel.

1972

- Regional Director John A. (Doc) Penello (R-5) appointed Board Member.
- Supreme Court decided *Burns International Security*, 406 U.S. 272.

1974

- Regional Office for R-28 moved from Albuquerque to Phoenix.
- Las Vegas established as Resident Office of Region 31, Los Angeles.

TIMELINE:

1975

- John C. Miller designated as Acting General Counsel.
- Betty Southard Murphy designated as Chairman.
- John S. Irving designated as General Counsel.
- San Antonio established as Resident Office of R-23 – Houston.
- Board Member Peter D. Walther confirmed.

1976

- Oakland established as Region 32.

1977

- Executive Secretary John C. Truesdale appointed Board Member.

1978

- Peoria established as Region 33.
- San Diego established as Resident Office of R-21 – Los Angeles.

1979

- Des Moines established as Resident Office of R-18 – Minneapolis.
- Hartford established as Subregional Office of R-1 – Boston.
- Norton J. Come designated as Acting General Counsel.
- William A. Lubbers appointed General Counsel.

1980

- Board Members Don A. Zimmerman and John C. Truesdale confirmed.

1981

- John C. Van De Water designated as Chairman.
- Grand Rapids established as Resident Office of R-7 – Detroit.
- Supreme Court decided *First National Maintenance*, 452 U.S. 666.
- Board Member Robert P. Hunter confirmed.

1982

- John C. Miller designated as Chairman.

1983

- Donald L. Dotson designated Chairman.
- Board Member Patricia Diaz Dennis confirmed.

1984

- Regional Director Wilford W. Johnson designated Acting General Counsel.
- Rosemary M. Collyer appointed General Counsel.

1985

- NLRB celebrates its 50th Anniversary.
- Board Members Wilford W. Johansen, Marshall B. Babson, and James M. Stephens confirmed.

1986

- Board Member Mary M. Cracraft confirmed.

1987

- James Stephens designated as Chairman.
- Supreme Court decided *Fall River Dying*, 482 U.S. 27.
- Board decided *Debuque Packing*, 287 NLRB 499.

1988

- Supreme Court decided *Edward J. Bartilo v. Florida Gulf* (BCTC), 485 U.S. 568.
- Board Members John E. Higgins, Jr. and Dennis M. Devaney confirmed.

1989

- Jerry Hunter appointed General Counsel.
- Joseph E. DeSio designated as Acting General Counsel.
- Board Member Clifford R. Oviatt confirmed.

1990

- Board Member John N. Raudabaugh confirmed.

1992

- Supreme Court decided *Lechmere, Inc.*, 502 U.S. 527.

1993

- Daniel Silverman designated as Acting General Counsel.

1994

- Frederick Feinstein appointed General Counsel.
- William Gould designated as Chairman.
- Supreme Court decided *Health Care & Retirement*, 511 U.S. 571.
- Board Members John C. Truesdale, Margaret A. Browning, Charles I. Cohen, and John C. Truesdale confirmed.

1995

- Supreme Court decided *Town & Country Electric*, 516 U.S. 585.
- NLRB Celebrates 60th Anniversary.

CHAPTER FIVE

THE NLRB IN THE MODERN
ERA (1996–2015)



BIG DECISIONS, BIG CONTROVERSY

During the period from 1995 to 2015, the Board issued several landmark decisions. In *Roadway Package System* and *Dial-A-Mattress* (1998), the Board clarified the test for determining whether an individual is an employee or instead an independent contractor, excluded from statutory coverage. In *FedEx Home Delivery* (2014), the Board further refined its standard in response to court decisions. Coverage questions raised by non-traditional work arrangements are increasingly common. In *FES* (2000), the Board – faced with many cases involving union “salting” campaigns and mixed court of appeals decisions – set forth the framework for deciding allegations of unlawful refusal to hire or consider union job applicants. In *Levitz* (2001), the Board held that an employer no longer may withdraw recognition from a union based merely on good-faith doubt of the union’s continued majority status, but instead may do so only where the union has actually lost majority support. And in *Oakwood Healthcare* (2006), issued in the wake of the Supreme Court’s *Kentucky River* decision, the Board refined the analysis to be applied in assessing whether individuals were non-covered supervisors.

The period also was marked by recurring disagreement over the meaning and scope of the Act, at least with respect to certain issues. Diverging views resulted in divided decisions, and shifting majorities in repeated reversals of precedent. For example, in *New York University* (2000), the Board overruled precedent to hold that graduate student assistants are employees within the meaning of the Act and therefore enjoy Section 7 rights. Four years later, in *Brown University*, the Board overruled NYU and returned to earlier precedent holding that graduate assistants are primarily students, not statutory employees. Then in *Pacific Lutheran University* (2014), the Board adopted a new jurisdictional test under *Catholic Bishop* that when it is argued that the Board cannot exercise jurisdiction over a petitioned-for unit of faculty because the university is a religious university, the university must first demonstrate that First Amendment concerns are implicated by showing that it holds itself out as providing a religious educational environment and then must show that it holds out the petitioned-for faculty members themselves as performing a specific role in creating or maintaining the religious educational environment. The Board also refined the standards under *Yeshiva University* to determine whether faculty actually or effectively exercise control over decision-making pertaining to central university policies by examining faculty participation in decision-making in: academic programs, enrollment management policies, finances, academic policies, and personnel policies and decisions, and giving greater weight to the first three areas than

the last two. Other precedential oscillations involved issues such as whether nonunionized workers are entitled to representation at disciplinary interviews (*Epilepsy Foundation* (2000); *IBM* (2004)); whether employees jointly employed by a “user” and “supplier” employer may be included, absent the consent of those employers, in a bargaining unit with employees employed only by the user employer (*M.B. Sturgis* (2000); *Oakwood Care Center* (2004)); whether an incumbent union is entitled to a reasonable period of time in which to bargain with a successor employer without challenge to its majority status (*St. Elizabeth Manor* (1999); *MV Transportation* (2002)); whether an employer’s unlawful threat of plant closure will be presumed disseminated throughout the workforce (*Springs Industries* (2000); *Crown Bolt* (2004)); and whether to process a decertification petition filed after alleged unlawful employer conduct but before the employer agrees to settle the unadmitted charges (*Douglas-Randall* (1995); *Truserv* (2007)).

But despite members’ conflicting views in certain areas, the Board’s jurisprudence retained much continuity with earlier precedent. Discharges where motive is disputed continued to be decided under *Wright Line* (1980). Section 8(a)(1) allegations continued to be governed by the objective test stated in *American Freightways* (1959). Whether activity is concerted continued to be determined under *Meyers Industries* (1986). Employer questioning continued to be tested for coerciveness under the totality-of-the-circumstances standard set forth in *Rossmore House* (1984). The rights and obligations of parties to a Section 8(f) contract continued to be governed by *Deklewa* (1987). And, in *United Carpenters* (Eliason & Knuth) (2010), the Board resolved a long standing dispute whether bannering of a neutral employer not involved in a labor dispute was lawful. In these and other



Inflated Rat as a symbol of protest in front of the NLRB Headquarters

respects, the law remained largely stable throughout this 20-year period.

In recent years there has been an increased emphasis on the protection of employee rights in the unorganized workplace. To answer this need the Board launched a webpage describing the rights of non union employees under the Act. In *Costco Wholesale Corporation* (2012) and other cases, the Board has extensively analyzed the rules of employee conduct set forth in employer handbooks. The Board has found that some rules discourage employees from engaging in protected concerted activity such as discussing their pay and publicizing their working conditions. In *Murphy Oil* (2014) and *D.R. Horton* (2012), the Board held that employers may not condition employment on employees' agreeing to prosecute their statutory employment claims only in individual arbitration. Such agreements, the Board found, impermissibly require employees prospectively to waive their Section 7 right to act in concert to pursue their statutory claims.

Increased reliance on the internet has presented the Board with new challenges in adapting the Act to the changes in the way employees communicated with one another. In *Hispanic's United of Buffalo* (2012), the Board held that employee discussion of shared work place concerns on social media was protected

under the Act and, in *Triple Play Sports Bar* (2014), the Board set forth a new test as to when activity on social media loses the protection of the Act. Similarly, increased reliance on email as a means of workplace communication – including traditional “water cooler” conversations – led the Board in *Register Guard* (2007) and *Purple Communications* (2014) to address the question of whether employers may bar employees from using office email systems on non-working time to communicate about Section 7 protected activity. In *Purple Communications*, the Board held that employers that have chosen to give their employees access to their email systems must ordinarily permit employee use of email for statutorily-protected communications on nonworking time.

In *Babcock & Wilcox* (2014), the Board established a stricter standard for deferral to arbitral awards in Section 8(a)(1) and (3) cases. The new standard places the burden on the party favoring deferral to show that (1) the arbitrator was explicitly authorized to decide the unfair labor practice issue; (2) the arbitrator was presented with and considered the statutory issue, or was prevented from doing so by the party opposing deferral; and (3) Board law reasonably permits the award. The Board also altered the standards for deferral to grievance settlements and for pre-arbitral (Collyer) deferral, consistent with the new standard for post-arbitral deferral.

ICON OF THE NLRB: LAFE E. SOLOMON

Lafe Solomon was the longest serving Acting General Counsel, having ably performed in that capacity for three years and four months commencing on June 21, 2010. In that role, he began an initiative requiring consideration of injunctive relief when employers attempted to “nip in the bud” nascent organizing efforts, which resulted in about 500 workers receiving offers to return to work and over \$5.5 million in backpay. He also put “protected concerted activity” on the map, both literally and figuratively, by leading the Agency’s response to cases involving employee use of social media to address workplace concerns and issued three related reports. Further, he astutely responded to budgetary constraints and technological advances by consolidating and streamlining Agency operations in the field offices and Headquarters. But perhaps Mr. Solomon will best be remembered for issuing a complaint against the Boeing Company after Boeing cited its Washington State unionized employees’ past strike activity and the possibility of future strikes as overriding factors in its decision to create a second production line of airplanes at a non-unionized facility. Before and after issuing the complaint, Mr. Solomon encouraged the parties to negotiate a mutually agreeable solution, and he was ultimately successful in this regard, as the parties are operating under a four-year collective bargaining agreement.

Mr. Solomon started with the Agency as a field examiner in Seattle in 1972, and then, upon receiving a law degree, worked as an attorney in the Office of Appeals and the Appellate Court Branch before moving to the Board side, where his remarkable talents were put to use by ten different Board members.



Lafe E. Solomon

The Agency continued to be involved in resolving significant multi-state controversies involving large number of employees. A complaint issued in *Boeing* (2011) alleging an unlawful transfer of work from Washington to South Carolina, which ultimately settled resulting in a new collective bargaining agreement. In 2010 and again in 2013, the Board conducted the largest mail ballot elections in the Agency's history, involving a statewide group of 45,000 Kaiser healthcare employees. Also employee discipline coming out of nationwide protests and strikes against Walmart on Black Friday resulted in complaints being issued against Walmart. In *CNN America* (2014), following an 82-day hearing, the Board found that CNN unlawfully replaced a unionized subcontractor with an in-house nonunion work force at its Washington, D.C., and New York City bureaus and ordered CNN to offer employment to more than 100 former employees of the former subcontractor. CNN also required the Board to refine its standards for determining when a joint employer relationship exists in the new "fissured economy." This issue is pending in the *Brown-Ferris* case.

In *Pacific Beach Hotel* (2014), the Board responded to the employer's egregious and pervasive violations with expanded remedies including unprecedented measures for ensuring that, for a period of three years, all employees are afforded an individualized explanation of their statutory rights. In addition, the Board concluded that front pay in lieu of reinstatement may be appropriate in some circumstances. In *Kellogg* (2014) an unlawful lockout of over 200 employees ended when the Board sought and obtained a district court order ending the lockout and reinstating the employees.



The Board agents who conducted the secret-ballot election at Volkswagen's Chattanooga, Tennessee factory (left to right) are: Field Attorney Sarah Bencini and Field Examiner Ingrid Jenkins from the Winston-Salem Subregional office, Field Examiners Jill Adkins and David Watkins from the Nashville Resident Office, and Nashville Resident Officer Stacey Smith. The election results of 2/14/14 were 626 yes votes and 712 no votes.

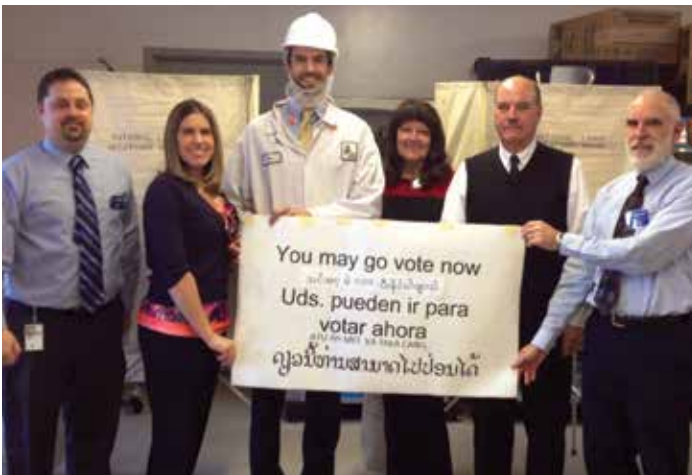
ICON OF THE NLRB: NORT COME

Norton J. Come's 54-year career with the NLRB began in January 1948. Hired by Robert Denham, the first General Counsel appointed under Section 3(d) of the Taft-Hartley Act, Come was caught up in the controversy that arose when the Board dismissed certain of Denham's unfair labor practice complaints on the ground that the dispute had only an insubstantial effect on commerce. Denham declined to defend these decisions. As a result, Nort was detailed to the Solicitor's Office to represent the Board in *Haleston Drug Stores v. NLRB*, 187 F.2d 418 (9th Cir. 1951), which affirmed the Board's jurisdictional discretion to dismiss complaints without reaching the merits.

Nort rose through the ranks to become head of the Supreme Court Branch, a position he held for 42 years. He personally argued 56 cases before the Supreme Court. Cases like *Leedom v. Kyne*, *Erie Resistor*, *American Ship, Burns*, *Golden State Bottling*, *Linden Lumber*, *H.K. Porter*, *First National Maintenance*, *Scotfield*, and *City Disposal* are benchmarks for lawyers practicing labor law. But those cases represent only some of the important occasions upon which Nort Come stood before the Supreme Court to present the Board's position. A plaque in the NLRB's main library pays tribute to Nort's "integrity, scholarship, clarity of mind, and his unusual ability to get to the heart of any problem."



Norton J. Come being sworn in as Acting General Counsel by Supreme Court Justice William Brennan as Nort's wife Dorothy looks on.



You May Now Go Vote

Sometimes it takes a special effort to get the Agency’s message across. Such was the case in an election in Region 18 (Minneapolis).



Region 31 Field Attorney Brian Gee and witness Burns entering the courthouse during the 2007 litigation of unfair labor practice complaints involving the Santa Barbara (CA) News Press.



Ms. Felicia Montes (center), a 16-year employee of Pacific Coast Industries, began speaking to her fellow employees in 2006 about seeking union representation. After an unfair labor practice trial, the NLRB ruled she was unlawfully terminated. Region 32 (Oakland) Compliance Officer Hokulani Valencia (left) and Region 32 Field Attorney Jennifer Benesis (right) worked to secure a remedy that included back pay, interest, and severance pay for Ms. Montes that totaled \$173,782.46.



Subregion 37 (Honolulu) Officer-in-Charge Thomas Cestare and Field Attorneys Dale K. Yashiki and Trent K. Kakuda outside The Pacific Beach Hotel in Honolulu, Hawaii. Attorneys Yashiki and Kakuda represented the General Counsel in the unfair labor practice and United States District Court Section 10(j) litigation ultimately leading to the Board Decision that issued on October 23, 2014, (361 NLRB No. 65), finding that the Hotel engaged in “egregious and pervasive violations” of the Act and ordering extensive remedies for the Hotel’s unfair labor practices.

MULTI-MILLION DOLLAR SETTLEMENTS

One of the NLRB's greatest success stories is the large number of unfair labor practice cases that result in settlements. Settlements can be between the private parties informally or between the Board and the party that committed the unfair labor practice. In Board settlement agreements, the Agency monitors compliance by the employer or union.

The Agency actively encourages the parties to reach a mutually satisfactory resolution of the issues at the earliest possible stage of an unfair labor practice case.

Settlements are the most effective way to improve relationships between the parties and permit the Agency to concentrate its limited resources on other cases by avoiding costly litigation expenses.

During the last ten years, as a result of settlements, the NLRB has distributed nearly \$430,000,000 to American workers in back pay for earnings lost as a result of unfair labor practices committed by employers and unions. As shown below, some of these settlements have involved millions of dollars and/or thousands of workers.

Case Name	Back pay and Other Claims	Total Number of Employees Receiving	Year Claim Paid
Lucent Technologies, Inc. and Avaya, Inc.	\$130,000,000	8000	2001
United States Postal Service	\$63,000,000	2000	2000
Greyhound Lines, Inc.	\$21,000,000	6000	2001
All American School Bus Corp.	\$20,000,000	3,000+	2014
Alaska Pulp Corp.	\$11,745,000	235	2003
Hubert Distributors, Inc.	\$10,200,000	308	2009
German Motors Corp.	\$7,700,000	235	2009
Sikorsky Aircraft Corporation	\$7,000,000	3600	2006
Eastown Distributors Company	\$6,900,000	230	2008
Kaiser Aluminum & Chemical Corporation	\$5,000,000	2950	2006
15th Avenue Food Corp.	\$3,500,000	128	2007
Goya Foods of Florida	\$3,000,000	175	2014
Air Line Pilots Association, Int'l	\$2,750,000	165	2011
Churgach Federal Solutions, Inc	\$2,650,000	72	2014
Renaissance Equity Holdings, LLC	\$2,500,000	50	2012
Titan Tire Corporation	\$2,023,941	750	2013
Royal Farms	\$2,000,000	2022	2005
International Paper	\$2,000,000	350	2014
Human Development Association	\$1,657,088	3,082	2008
Wells Dairy, Inc.	\$1,200,000	2600	2004
Nasaky/Yuba Skilled Nursing Center	\$1,000,000	100+	2014

A SETTLEMENT STORY: \$11.75 MILLION SETTLEMENT WITH ALASKA PULP CORPORATION

The NLRB enjoys an outstanding record for expeditious case processing. In FY 2013, for example, the Agency exceeded the goals required by the Government Performance and Results Modernization Act when over 87% of representation cases were resolved within 100 days of filing and over 79% of all unfair labor practice cases were closed within 365 days. Although over 90% of all meritorious unfair labor practice cases are resolved by settlement very early in this 365 day period, some cases by virtue of the issues and the parties involved take much longer.

Whether cases are settled early or litigated for years, all share two attributes - hard work and commitment to the purposes of the statute by Agency personnel. The successful processing of the case against Alaska Pulp Corporation (APC) is representative of both these characteristics and exemplifies in concrete terms what NLRB staff have been doing for 80 years.

The original charge in Alaska Pulp involved striker rights and was filed in 1987. The matter was finally closed on compliance sixteen years later with the disbursement of \$11.75 million dollars. During that time there were two unfair labor practice hearings which culminated in Board decisions later enforced in the 9th Circuit, and an 18 day backpay hearing resulting in a Supplemental Board decision. This was followed by an extensive joint effort of the Seattle Regional Office and the Board's Contempt Litigation and Compliance Branch (CLCB) to obtain compliance from the Respondent, which had ceased operation and transferred its remaining assets out of the country.



Regional Director Rich Ahearn, Charging Party Pace International Melinda Branscomb, Charging Party Discriminatee Ed Reiner, Charging Party Discriminatee David Heibert, Discriminatee Jack Salovon, Regional Attorney Joanne Howlett, Region 19 Compliance Officer Jim Lorang, Discriminatee Winifred Dimaano, & Deputy Assistant General Counsel Ken Shapiro.

ICON OF THE NLRB: RICHARD A. SIEGEL

Richard A. Siegel served as the Associate General Counsel in the Division of Operations-Management the last 15 years of his career which spanned from 1974 to 2011. He started as the Associate in 1996. During this period of time he shepherded the field operation through the implementation of the Impact Analysis program which had been established



Richard A. Siegel

shortly before he took over the Associate position. The Impact Analysis program represented a significant departure from the first in, first out procedures utilized for decades in that it prioritized those cases having the most significant impact on the public. He also led the field operation in the transition to the NxGen electronic case tracking system. This also was a remarkable change from the paper case handling systems of the past. Both of these innovative programs are still in place today.

He was the consummate public servant beginning his NLRB career in the Division of Advice and then moving into a field attorney position in the Philadelphia Regional Office from which he was quickly promoted to the supervisory field attorney position. He delighted in discussing the law and litigation strategy and was a true "lawyer's lawyer". He completed his career in the Division of Operations-Management where he began as a deputy assistant general counsel was promoted to the Assistant General Counsel and, in 1996, became the head of the Division and the whole field organization. During his tenure he worked for eight different General Counsels from different parties and took great pride in effectuating the important mission of the National Labor Relations Act.

Those sixteen years of litigation and hard work by Agency staff came to a successful conclusion, when 53 former employees of Alaska Pulp Corporation were presented their long-awaited backpay checks at ceremonies in Seattle, Washington on March 3, 2004 and Sitka, Alaska on March 5, 2004. Seventy other claimants received additional pension credits, virtually doubling some retirees' monthly annuities, vesting pension benefits for

a number of claimants who were otherwise not vested, and providing many claimants substantial back payments directly from a Pension Plan, over and above the \$11.75 million back pay fund.

Of central importance to the favorable outcome in this case were the innovative and aggressive actions undertaken by the CLCB to ensure the preservation of sufficient assets to satisfy the Board's enforced order, following APC's closure of the Sitka facility. First, through the Agency's first-time use of the judgment-offset provisions of the United States Code, which permit a government agency to which a debt is due, to recover funds from the U. S. Treasury, funds that would otherwise be paid to the debtor by the United States in an unrelated matter. Utilizing this statute, the CLCB was able to obtain the sequestration of the proceeds of a successful breach of contract action brought by APC against the U.S. Forest Service, just as Treasury was about to disburse them to APC, thereby obtaining control over approximately \$7.2 million. Second, an aggressive derivative liability investigation initiated by the CLCB regarding the apparent dissipation of APC's assets, which included obtaining two important decisions in a related subpoena enforcement action, resulting in APC agreeing to contribute an additional \$3 million to an escrow account to be held under the Board's control, pending final resolution of the underlying case.

The affected employees were most grateful for the work of the Regional and the Washington staffs. At the Seattle ceremony, Charging Party Hiebert, a Union official during the strike, expressed his appreciation for all the NLRB had done to prosecute and remedy the Employer's unfair labor practices, specifically citing the tireless work of Region 19 staff. Later, claimant Winifred Dimaano was heard to say, "Sometimes,

we weren't sure if this case would ever end. But this is a great country, and we finally got justice."

Two days later at a similar ceremony in Sitka, Alaska, Region 19 Compliance Officer Jim Lorang and CLCB Deputy Assistant General Counsel Ken Shapiro disbursed backpay checks (several exceeding \$250,000) to more than 40 claimants who lived in that area. Union President Jesse Jones opened the Sitka meeting by leading all in the Pledge of Allegiance and Charging Party Hiebert, who flew to Sitka at his own expense, reprised his Seattle comments praising the work of NLRB staff. The claimants were called to the front of the room one-by-one to receive their checks amidst the approval and applause of their former co-workers.



From left to right: R-19 Compliance Officer Jim Lorang; and claimant Jesse Jones, who was local union President during the strike. Here, claimant and union activist John Lawson, Sr. receives his long-awaited backpay check.



After issuing an unfair labor practice complaint against Vermont Auto Wash, based on charges filed by the Carwash Workers Organizing Committee and the United Steelworkers, the NLRB's Region 31 office in Los Angeles negotiated a formal settlement providing for entry of a court order, reading the Board's remedial Notice to assembled employees, reinstatement for discharged workers and payment of over \$60,000 in back wages. Shown here (left to right) are Region 31 Field Attorney Rudy Fong-Sandoval, discriminatee Bosbely Reyna, Region 31 Compliance Officer Travis Williams, discriminatee Jose Torres, and Region 31 Field Attorney Yaneth Palencia.



Region 20, San Francisco, Compliance Officer Karen Thompson and Field Attorney Joe Richardson who secured a \$1 Million settlement when Nasaky, Inc. and Thekkek Health Services, Inc. unlawfully refused to hire workers from Yuba Skilled Nursing Center in Yuba City, California.

THE AGENCY ENTERS THE DIGITAL AGE

The digital age, with its remarkable mix of ever-changing technologies, provided the Agency, and the Federal Government as a whole, with both challenges and opportunities. Heightened expectations required the Agency to be ready to deliver and receive digital information and services anytime, anywhere and on any device. The Agency rose to these challenges and embraced the opportunities by investing smartly and significantly in technology to:

- Improve the productivity of the Agency's case management by standardizing business processes in a single unified electronic case management system.
- Optimize business processes by providing employees ready access to the tools, data and documents they require from anywhere, at any time.
- Transform the way the NLRB serves the public, including making its case processes transparent and providing more information to its constituents electronically, online and on demand.
- Streamline processes to reduce the paperwork burden on constituents, including individuals, labor unions, businesses, government entities and other organizations.

Beginning in 2008, under the leadership of Chief Information Officer, Bryan Burnett, the Agency developed and implemented a unified electronic case management system, a success that still is rare within the Federal government. The Agency's Next Generation Case Management (NxGen) system was designed to replace 11 separate legacy systems and integrate multiple technologies into a single unified system. NxGen remains the most comprehensive technology project undertaken at the NLRB, and its success is essential in supporting the Agency's mission and meeting the Agency's goal of offering timely and relevant information to case participants, employees and citizens. Internally, the NxGen system allows

Agency employees to view the status and documents in their own cases, as well as the status and documents of similar cases elsewhere in the Agency. It also facilitates internal coordination of efforts and collaboration between offices and divisions. Externally, the NxGen system has greatly expanded public access to documents and data through the Agency's website and portal, which is linked to the NxGen system.

In conjunction with the development of the NxGen system, the Agency debuted a redesigned public website in February 2011 that capitalized on the ability to provide a direct link to case data and documents in NxGen. This new resource aligned with the Agency's commitment to transparency and made it easier for those interested in the Agency's work to find information as easily and efficiently as possible. In 2012, the Agency unveiled redesigned website case pages that allow users to see all activity in NLRB cases and provide direct links to available public documents. In 2013, the Agency launched its first app for smartphones, which provides information to the public on employee and employer rights under the NLRA.

More recently, the Agency capitalized on cloud computing's benefits to improve information technology flexibility, service responsiveness, and to minimize costs. Included in these cloud-empowered efforts are automating organizational processes, providing cost-effective and scalable storage, modernizing administrative applications, and implementing the Agency's Unified Communication and Collaboration (UCC) strategy. UCC is an essential investment for the Agency, designed to create a modern communications platform and network to empower personnel to communicate with voice, video and data from all locations including the office, at home and on the road. Combined with the investment in NxGen and the widespread deployment of laptops, this new platform and network will increase mobility, staff productivity, and support the Agency's burgeoning telework efforts.



First paperless General Counsel Appeals agenda.

THE TWO-MEMBER BOARD

Anticipating a loss of two members when Congress adjourned in January 2008, a four-Member Board, consisting of Members Wilma B. Liebman, Peter C. Schaumber, Peter N. Kirsanow, and Dennis P. Walsh, unanimously decided on December 27, 2007 to temporarily delegate the Board's powers to Members Liebman, Schaumber, and Kirsanow. This action, the Board members concluded, permitted Members Liebman and Schaumber, as a quorum of the three-member group, to issue decisions and orders in unfair labor practice and representation cases. The delegations became effective at midnight, December 28, 2007. In announcing the delegations, the Board stated that it had "a continuing responsibility to fulfill its statutory obligations in the most effective and efficient manner possible."

The Board acted pursuant to Section 3(b) of the Act, which provides that

[t]he Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. ...A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof.

In addition to the statutory language, the Board relied on the legal analysis and U. S. Circuit Court precedent set forth in the March 4, 2003 opinion issued by the Office of Legal Counsel (OLC) of the Department of Justice, which concluded that "if the Board delegated all of its powers to a group of three members, that group could continue to issue decisions and orders as long as a quorum of two members remained."

The Board has historically relied on this reasoning where one member of a three-member Board is disqualified or recused from participating on the merits of a case. The Board also noted that OLC's opinion did not distinguish between decisions that were pending at the time of the delegation of authority to the three-member Board and decisions that are submitted to the Board after the delegation and the departure of the third member.

On June 17, 2010, with 96 cases pending in the federal courts of appeals, the Supreme Court ruled 5-4 in *New Process Steel v. NLRB* that the two-member Board lacked the authority to decide cases. Within days of that decision from the Supreme Court, the Senate confirmed the nominations of Board Members Mark Gaston Pearce and Brian Hayes, and, along with Chairman Liebman, Member Schaumber, and Member Craig Becker, who was serving under a recess appointment, the Board was back up to full strength. The 5-member Board quickly announced its commitment

to giving parties the swift decisions they deserved, and promptly set about issuing decisions. By the expiration of Member Schaumber's term on August 27, 2010, the Board had issued new decisions in almost all of the cases returned to it from the courts of appeals following *New Process Steel*.



Wilma B. Liebman, Chairman, and Peter C. Schaumber, Board Member.

ICON OF THE NLRB: WILMA B. LIEBMAN

Wilma B. Liebman was designated Chairman of the National Labor Relations Board (NLRB) by President Obama on January 20, 2009 becoming the first woman appointed Chairman by a Democratic president. She served in that capacity until August 27, 2011. Ms. Liebman was first appointed by President Clinton and confirmed by the Senate to a term that commenced on November 14, 1997 and expired on December 16, 2002. She was then reappointed by President Bush and confirmed by the Senate to a second term that expired on August 27, 2006 and to a third term that expired on August 27, 2011. Ms. Liebman was the third longest serving member of the NLRB in its history and also has the unique distinction of serving as a member of a five-member Board, a four-member Board, a three-member Board, a two-member Board, and finally as the sole Board member.

She may be the only Board member to have a law review article devoted to analyzing her Board career. See David L. Gregory, Ian Hayes & Amanda Jaret, *The Labor Law Jurisprudence of Wilma Liebman*, 30 *Hofstra Labor & Employment Law Journal* 27 (2012). The authors begin, "Wilma Liebman is the exemplar of the dedicated, intrepid public servant." She earned an international reputation. For example, she delivered the keynote address at the World Congress of Labour Law in Sydney, Australia, in 2009.

THE RECESS-APPOINTED BOARD

On January 4, 2012, President Obama filled three vacancies on the five-Member Board by giving recess appointments to Board Members Sharon Block, Terence F. Flynn, and Richard F. Griffin, Jr. These appointments were made at a time when the 2nd session of the previous Congress had adjourned, with a technical “pro forma” session scheduled to be convened on January 6, 2012. None of these three Members was ever subsequently confirmed by the Senate. Board Member Flynn resigned on July 24, 2012, and Board Members Block and Griffin served until they were replaced by confirmed Members on July 30, 2013. On numerous occasions during the Board’s history, Board Members have served under recess appointments, but the January 2012 appointments marked the first time that Board Members were recess-appointed while the Senate was conducting “pro forma” sessions.

On June 26, 2014, the U.S. Supreme Court held that President Obama’s January 2012 recess appointments of former Members Block, Flynn, and Griffin were invalid under the Recess Appointments Clause of the Constitution. The Court’s opinion, however, left unaffected the President’s March 27, 2010 recess appointment of former Member Craig Becker, and therefore let stand all of the Board decisions and administrative actions on which former Member Becker participated during his April 5, 2010 to January 3, 2012 tenure on the Board.

In its opinion, the Supreme Court held that: (1) the President’s recess-appointment power may be exercised during a recess that occurs within a session of the Senate, and is not limited to recesses that occur between enumerated sessions of the Senate; (2) the President’s recess-appointment power may be exercised to fill vacancies that initially occur before a recess but continue to exist during the recess and vacancies that arise during a recess; and (3) the President could not exercise his recess-appointment power during the time when the Senate was convening every 3 days in pro forma sessions, as in January 2012, because the Senate had declared that it was in session during the pro forma sessions and it had retained the power to conduct business.

As a result of the Supreme Court’s decision, 99 cases pending in the various U.S. Courts of Appeals and 4 pending with the Supreme Court returned to the Board for reconsideration of decisions issued by the Board between January 9, 2012 and August 2, 2013, on which former Members Block, Flynn, or Griffin participated. In 43 of the 99 cases pending in Appeals Courts, the record had not yet been filed with the Courts and, consequently, the Board retained jurisdiction. Accordingly, beginning the day after the Supreme Court’s decision in *Noel*

Canning, the Board issued Orders setting aside the previous Board decisions and orders in those 43 cases, and retained them on its docket for further action as appropriate.

With respect to the remaining 56 cases, the record had been filed with the respective Circuit Courts, and therefore, the Board sought and obtained remands of these cases from the Courts or accepted remands already issued, so that these 56 cases also could be reconsidered by the then-current Board, which consisted of Chairman Mark Gaston Pearce, and Members Philip A. Miscimarra, Kent Y. Hirozawa, Harry I. Johnson III, and Nancy Schiffer, all of whom had been confirmed by the Senate on July 30, 2013. The confirmations of these five Members represented the first time in a decade – since August 21, 2003 – that the Board had five confirmed Members. And, it marked the first time since July 23, 2012 that the Board had its full complement of five Members, including those serving under recess appointments. In the subsequent months, the Board issued new decisions in more than half of the cases affected by the Supreme Court’s *Noel Canning* decision.



Chairman Mark Gaston Pearce stands with new Members Richard F. Griffin, Jr., Sharon Block, and Terence F. Flynn.

CURRENT BOARD AND GENERAL COUNSEL

BOARD HAS FIVE CONFIRMED MEMBERS FOR FIRST TIME IN A DECADE



Standing: Nancy J. Schiffer, Harry I. Johnson, III; seated: Philip A. Miscimarra, Chairman Mark G. Pearce, and Kent Y. Hirozawa.



Lauren McFerran replaced Nancy Schiffer on the Board 12/17/2014.



Richard F. Griffin, Jr. was sworn in for a 4-year term as the Board's 30th General Counsel on November 4, 2013.



Richard F. Griffin Jr.,
General Counsel.



Richard F. Griffin, Jr., General Counsel, with Jennifer Abruzzo, Deputy General Counsel.

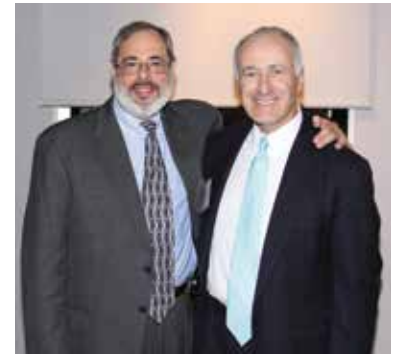
75TH ANNIVERSARY HEADQUARTERS CELEBRATIONS



Seated left to right: Peter Schaumber; Wilma Liebman; Sam Zagoria; Dennis Devaney; Standing left to right: Fred Feinstein; Robert Battista; Marshall Babson; William Cowen; Peter Hurtgen; John Truesdale; John Higgins; Ron Meisburg; and Dennis Walsh.



John Truesdale and Wilma Liebman.



Les Heltzer and Marshall Babson.



Marty Arlook, Sam Zagoria and John Higgins.



Lee Clark, Fred Feinstein, Anne Purcell and Gloria Joseph.



John Truesdale, Dennis Walsh and Mary Cracraft.

75TH ANNIVERSARY - FIELD CELEBRATIONS



Current and former Region 3 (Buffalo) staff members gather at the Albany Resident Office's 75th Anniversary Celebration, jointly sponsored with the Labor and Employment Society of Albany Law School and the Capital District LERA Chapter. Present (front row, left to right) are RD Rhonda Ley, Board Member (and Region 3 alum) Mark Gaston Pearce, FX Kelly Moore-Lamotta, and FA Brie Kluytenaar; (back row, left to right) RA Michael Israel, RO Barney Horowitz, and ARD Paul Murphy.



Region 25 RD Rik Lineback (left) and former ARD Roger LaForge (right) at Region's 25's celebration of the NLRB's 75th Anniversary. Joining Rik and Roger are local attorneys Ken Yerkes and Keith White, who regularly represent clients in cases before Region 25.



The combined staffs of Region 21 and Region 31 celebrate the Agency's 75th anniversary at the 28th annual Labor and Employment Law Conference in Anaheim, California.

NLRB'S COLLABORATION WITH CONSULATES

In 2013, the NLRB began collaborating with the consulates of several countries to improve employer and employee awareness of the rights and obligations under the act applicable to foreign nationals working in the United States.

Acting General Counsel Lafe Solomon signed an agreement with the Ministry of Foreign Affairs of the United Mexican States to provide outreach, education, and training, and to develop best practices. The Agreement was an outgrowth of initial negotiations between the NLRB's Chicago office and the Mexican Consulate in Chicago, who also signed a cooperative agreement.

In 2014, Region 4 (Philadelphia) and Region 15 (New Orleans) signed local memoranda of understanding with Consulates of Mexico to strengthen the collaborative efforts to provide Mexican workers, their employers, and Mexican business owners with information, guidance, and access to education regarding their rights and responsibilities under the National Labor Relations Act.

In August 2014, the National Labor Relations Board and the Ministry of Foreign Affairs and Human Mobility of Ecuador signed a memorandum of understanding designed to educate Ecuadorian workers, their employers, and Ecuadorian business owners in the United States about their rights and responsibilities under the National Labor Relations Act. The agreement aimed to promote a broader awareness within the Ecuadorian community of the Act, how it functions, what rights it affords foreign nationals, as well as services that the NLRB provides.

In October 2014, the Agency signed a similar memorandum of understanding with the Department of Foreign Affairs of the Republic of the Philippines.



Celeste J. Mattina, former Deputy General Counsel, served as the Mistress of Ceremonies for the signing ceremony with representatives of the Mexican government.



General Counsel Richard F. Griffin, Jr. and the Ecuadorian Ambassador, Nathalie Cely, sign a memorandum of understanding.



The Ambassador of the Philippines, Jose L. Cuisia, Jr. and General Counsel Richard F. Griffin, Jr., sign a memorandum of understanding.



Chairman Mark Gaston Pearce, NLRB, the Ambassador of the United Mexican States, Eduardo Medina Mora, and the Acting General Counsel Lafe Solomon at a signing ceremony.

TIMELINE:**1996**

- Board Members Sarah M. Fox and John E. Higgins, Jr. confirmed.

1997

- Board Members J. Robert Brame III, Peter J. Hurtgen, and Wilma B. Liebman confirmed.

1998

- John C. Truesdale designated as Chairman.
- Supreme Court decided *Allentown Mack Sales*, 522 U.S. 359.

1999

- Leonard R. Page designated General Counsel.

2000

- Peoria Regional Office was made a Subregional Office of Region 14, St. Louis.
- Board Member Dennis P. Walsh confirmed.

2001

- Supreme Court decided *Kentucky River*, 532 U.S. 706.
- Board decided *Levitz Furniture*, 333 NLRB 717.
- John Higgins designated as Acting General Counsel.
- Arthur Rosenfeld appointed General Counsel.
- Peter J. Hurtgen designated as Chairman.

2002

- Robert J. Battista designated as Chairman.
- Board Members Michael J. Bartlett, William B. Cowen, R. Alexander Acosta, and Peter C. Schaumber confirmed.

2004

- Board Member Ronald E. Meisburg confirmed.

2006

- Ronald Meisburg appointed General Counsel.
- Board Members Peter N. Kirsanow and Dennis P. Walsh confirmed.

2008

- Supreme Court decided *Chamber of Commerce v. Brown*.

2009

- Wilma Liebman designated Chairman.
- Creation of Public Affairs Office.

2010

- Supreme Court decided *New Process Steel*.
- Craig Becker receives recess appointment as Board Member.
- Board Members Mark G. Pearce and Brian Hayes confirmed.
- Lafe E. Solomon designated acting General Counsel.

2012

- Sharon Block, Terrance Flynn & Richard F. Griffin, Jr. receive recess appointments as Board Members.
- Creation of the Office of the Chief Financial Officer (OCFO).
- Winston-Salem Regional Office became a Subregion of the Atlanta Regional Office.
- Memphis Regional Office became a Subregion of the New Orleans Regional Office.
- Kansas City Regional Office became a Subregion of the St. Louis Regional Office.
- Hartford Regional Office became a Subregion of the Boston Regional Office.
- Peoria office, formerly a Subregion of the St. Louis Regional Office, became a Subregion of the Indianapolis Regional Office.
- Nashville office, formerly a Resident Office of the Memphis Regional Office, became a Resident Office of the Atlanta Regional Office.

2013

- Chairman Mark Gaston Pearce, General Counsel Richard F. Griffin, Jr., and Board Members Philip A. Miscimarra, Kent Y. Hirozawa, Harry I. Johnson III, and Nancy Schiffer, are confirmed by the Senate.
- Creation of Division of Legal Counsel.
- Milwaukee Regional Office became a Subregion of the Minneapolis Regional Office.
- Puerto Rico Regional Office became a Subregion of the Tampa Regional Office.
- NLRB launches a mobile app, available free of charge for iPhone and Android users.

2014

- Supreme Court decision in *NLRB v. Noel Canning*.
- Consolidation to form Office of Congressional and Public Affairs.
- Board Member Lauren McFerran confirmed.

2015

- NLRB moves to new headquarters at 1015 Half Street SE, Washington, DC.
- NLRB CELEBRATES 80TH ANNIVERSARY!!!

CHAPTER SIX

PHOTOGRAPHS
AND MEMORIES





General Counsel Richard F. Griffin Jr. (center) with participants from one of three groups of the 2014 Professional Exchange Program: David Colangelo, Field Examiner, Region 5 (Baltimore); Barbara Baynes, Field Examiner, Region 28 Las Vegas Resident Office; Audrey Eveillard, Field Attorney, Region 2 (Manhattan); Miguel Rodriguez, Compliance Officer, Region 28 (Phoenix); the GC; Kimberly Andrews, Filed Examiner, Region 5 (Baltimore); Cheryl Sizemore, Field Attorney, Region 8 (Cleveland); and Nicole Deitman, Field Examiner, Region 10 (Atlanta).

Every two years, the NLRB Professional Association formally recognizes the contributions of its members in the workplace and the community. The 2013 PAPAs (Professional Association Professionalism Awards) honorees were Martha Kinsella, Megan Mullet, Amy Cocuzza, Melissa Barrows, and David Casserly.



Jennifer Abruzzo, Deputy General Counsel, Lasharn Hamilton, Associate Director, Human Resources, and Mark Gaston Pearce, Chairman, presenting the award for Administrative Professional of the Year to Carmelete Fortune.



Division of Administration - Awards Open House.



NLRB Conference, Washington, D.C., November 1938.



Regional Director's Management Conference, 2001 - San Diego, CA.



Division of Operations Management, 2010.

NLRB HEADQUARTERS BUILDINGS - THEN AND NOW



Department of Commerce 1933-34

War Department Mills Building
1934-1935

Department of Labor 1935

Denwright Building
1935-1940

Shoreham Hotel 1940-1945



Rochambeau Apartment 1945-1949

Health, Education & Welfare Building
1949-19601717 Pennsylvania Ave. N.W.
1960-1993

Franklin Court Building 1993-2015



In 2015, the NLRB moves to a new location: 1015 Half St. S.E.

BOARD CHAIRMEN AND MEMBERS 1935 – 2014

1935 – 1940



J.M. Carmody, J.W. Madden and E.S. Smith



J. Warren Madden, Chairman



E.S. Smith, D. W. Smith and J.W. Madden



W.M. Leiserson, J.W. Madden and E.S. Smith

1940 – 1945



Harry A. Millis



G.D. Reilly, H.A. Millis and J.M. Houston

1945 – 1953



J.M. Houston, P.M. Herzog, G.D. Reilly



Paul M. Herzog, Chairman



P.L. Styles, J.M. Houston, P. Herzog, A. Murdock, I.H. Peterson



A. Murdock, J.M. Houston, P.M. Herzog, J.J. Reynolds, Jr., J.C. Gray

1953 – 1955



Guy Farmer, Chairman



P.R. Rodgers, A. Murdock, G. Farmer, I.H. Peterson, A.C. Beeson

1955 – 1961



J. H. Fanning, P.R. Rodgers, B.S. Leedom, J.A. Jenkins, A.A. Kimball



Boyd S. Leedom, Chairman



P.R. Rodgers, S.S. Bean, B.S. Leedom, J.A. Jenkins, J.H. Fanning

1961 – 1970



Frank W. McCulloch,
Chairman



H. Jenkins, Jr., J.H. Fanning, F.W. McCulloch, G.A. Brown, S. Zagoria

1970 – 1974



Edward B. Miller, Chairman



R.E. Kennedy, J.H. Fanning, E.B. Miller, H. Jenkins, Jr., J.A. Penello

1975 – 1977



J.A. Penello, J.H. Fanning, B.S. Murphy, H. Jenkins, Jr., P.D. Walther



Betty Southard Murphy, Chairman



J.H. Fanning, R.E. Kennedy, B.S. Murphy, J.A. Penello, H. Jenkins, Jr.

1977 – 1981



John H. Fanning, Chairman



H. Jenkins, Jr., B.S. Murphy, J.H. Fanning, J.A. Penello, J.C. Truesdale

1981 – 1982



John R. Van De Water,
Chairman



D.A. Zimmerman, J. H. Fanning, J.R. Van De Water, H. Jenkins, Jr., R. P. Hunter

1982 – 1983



John C. Miller, Chairman



H. Jenkins, Jr., D.A. Zimmerman, R.P. Hunter, J.C. Miller

1983 – 1987



H. Jenkins, Jr., R.P. Hunter, D.L. Dotson, P.D. Dennis, D.A. Zimmerman



Donald L. Dotson, Chairman



P.D. Dennis, M.B. Babson, D.L. Dotson, J.M. Stephens,
W.W. Johansen

1987 – 1994



Mary M. Cracraft, Clifford R. Oviatt, James M. Stephens, John N. Raudabaugh, Dennis M. Devaney



James M. Stephens, Chairman



Dennis M. Devaney, James M. Stephens, John C. Truesdale



Wilford M. Johansen, John E. Higgins, James M. Stephens, Dennis M. Devaney, Mary Cracraft

1994 – 1998



James M. Stephens, Margaret A. Browning, William B. Gould IV, Charles J. Cohen, Dennis M. Devaney



William B. Gould IV, Chairman



James M. Stephens, Charles I. Cohen, William B. Gould IV, John C. Truesdale, Margaret A. Browning



Sarah M. Fox, Margaret A. Browning, William B. Gould IV, Charles I. Cohen



John E. Higgins Jr., Margaret A. Browning, William B. Gould IV, Sarah M. Fox



Sarah M. Fox, Peter J. Hurtgen, William B. Gould IV, Robert Brame III, Wilma B. Liebman

1998 - 2001



John C. Truesdale, Chairman



Sarah M. Fox, Peter J. Hurtgen, John C. Truesdale, Robert Brame III, Wilma B. Liebman

2001 - 2002



Dennis P. Walsh, Wilma B. Liebman, Peter J. Hurtgen, John C. Truesdale



Peter J. Hurtgen, Chairman



William B. Cowen, Peter J. Hurtgen, Wilma B. Liebman, Michael J. Bartlett

2002 - 2007



Wilma B. Liebman, Dennis P. Walsh, Robert J. Battista, R. Alexander Acosta, Peter C. Schaumber



Robert J. Battista, Chairman



Wilma B. Liebman, Dennis P. Walsh, Robert J. Battista, Ronald E. Meisburg, Peter C. Schaumber



Wilma B. Liebman, Peter N. Kirsanow, Robert J. Battista, Dennis P. Walsh, Peter C. Schaumber

2008 - 2009



Peter C. Schaumber,
Chairman



Peter C. Schaumber, Wilma B. Liebman

2009 - 2011



Wilma B. Liebman, Chairman



Wilma B. Liebman, Peter C. Schaumber



Craig Becker, Wilma B. Liebman, Peter C. Schaumber,
Mark Gaston Pearce



Craig Becker, Mark Gaston Pearce, Wilma B.
Liebman, Brian Hayes, Peter C. Schaumber



Brian Hayes, Craig Becker, Wilma B. Liebman,
Mark Gaston Pearce

2011 - 2014



Mark Gaston Pearce,
Chairman



Craig Becker, Mark Gaston Pearce, Brian Hayes



Brian Hayes, Sharon Block, Mark Gaston Pearce,
Terence F. Flynn, Richard F. Griffin, Jr.



Richard F. Griffin, Jr., Mark Gaston Pearce, Brian
Hayes, Sharon Block



Philip A. Miscimarra, Nancy J. Schiffer, Mark Gaston
Pearce, Harry L. Johnson, III, Kent Y. Hirozawa

GENERAL COUNSELS: 1935-2015



Charles Fahy
General Counsel
September 1935 - September 1940



Robert B. Watts
General Counsel
December 1940 - January 1944



Alvin J. Rockwell
General Counsel
January 1944 - September 1945



David A. Morse
General Counsel
September 1945 - June 1946



Gerhard P. Van Arkel
General Counsel
July 1946 - June 1947



Robert N. Dehnam
General Counsel
August 1947 - September 1950



George J. Bott
General Counsel
September 1950 - December 1954



Theophil C. Kammholz
General Counsel
March 1955 - January 1957



Kenneth McGuinness
Acting General Counsel
January 1957 - March 1957



Jerome D. Fenton
General Counsel
March 1957 - June 1959



Stuart Rothman
General Counsel
June 1959 - May 1963



Arnold Ordman
General Counsel
May 1963 - June 1971



Eugene G. Goslee
Acting General Counsel
June 1971 - August 1971



Peter G. Nash
General Counsel
August 1971 - August 1975



John C. Miller
Acting General Counsel
August 1975 - November 1975



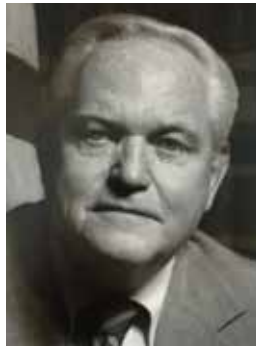
John S. Irving
General Counsel
December 1975 - October 1979



Norton J. Come
Acting General Counsel
October 1979 - December 1979



William A. Lubbers
General Counsel
December 1979 - April 1984



Wilford W. Johansen
Acting General Counsel
April 1984 - October 1984



Rosemary M. Collyer
General Counsel
October 1984 - April 1989



Joseph E. DeSio
Acting General Counsel
April 1989 - November 1989



Jerry M. Hunter
General Counsel
November 1989 - November 1993



Daniel Silverman
Acting General Counsel
November 1993 - March 1994



Frederick L. Feinstein
General Counsel
March 1994 - November 1999



Leonard R. Page
General Counsel
November 1999 - April 2001



John E. Higgins Jr.
Acting General Counsel
May 2001 - June 2001



Arthur F. Rosenfeld
General Counsel
June 2001 - June 2005



John E. Higgins Jr.
Acting General Counsel
June 2005 - June 2005



Arthur F. Rosenfeld
General Counsel
July 2005 - January 2006



Ron Meisburg
General Counsel
January 2006 - June 2010



Lafe Solomon
Acting General Counsel
June 2010 - November 2013



Richard F. Griffin Jr.
General Counsel
November 2013 - Present

CHAIRMEN AND MEMBERS, 1935–2015 (*Served as Chairman)

Edwin S. Smith	08/27/35 - 08/27/41	James M. Stephens*	10/16/85 - 08/27/95
J. Warren Madden*	08/27/35 - 08/26/40	Mary M. Cracraft	11/07/86 - 08/27/91
John M. Carmody	08/27/35 - 08/31/36	John E. Higgins, Jr.	08/29/88 - 11/22/89
Donald Wakefield Smith	09/23/36 - 05/31/39	Dennis M. Devaney	11/22/88 - 12/16/94
William M. Leiserson	06/01/39 - 02/23/43	Clifford R. Oviatt	12/14/89 - 05/28/93
Harry A. Millis*	11/26/40 - 07/04/45	John N. Raudabaugh	08/27/90 - 11/26/93
Gerard D. Reilly	10/11/41 - 08/26/46	John C. Truesdale	01/24/94 - 03/03/94
John M. Houston	03/15/43 - 08/27/53	William B. Gould IV*	03/07/94 - 08/27/98
Paul M. Herzog*	07/05/45 - 06/30/53	Margaret A. Browning	03/09/94 - 02/28/97
James J. Reynolds, Jr.	08/28/46 - 12/31/51	Charles I. Cohen	03/18/94 - 08/27/96
Abe Murdock	08/01/47 - 12/16/57	John C. Truesdale	12/23/94 - 01/03/96
J. Copeland Gray	08/01/47 - 12/16/49	Sarah M. Fox	02/06/96 - 12/15/00
Paul L. Styles	02/27/50 - 08/31/53	John E. Higgins, Jr.	09/03/96 - 11/13/97
Ivar H. Peterson	03/21/52 - 08/27/56	J. Robert Brame III	11/17/97 - 08/27/00
Guy Farmer*	07/13/53 - 08/27/55	Peter J. Hurtgen*	11/14/97 - 08/01/02
Philip Ray Rodgers	08/28/53 - 08/27/63	Wilma B. Liebman*	11/14/97 - 08/27/11
Albert C. Beeson	03/02/54 - 12/16/54	John C. Truesdale*	12/04/98 - 10/01/01
Boyd S. Leedom*	04/04/55 - 12/16/64	Dennis P. Walsh	12/30/00 - 12/20/01
Stephen S. Bean	12/01/55 - 08/27/60		12/17/02 - 12/16/04
Joseph Alton Jenkins	03/28/57 - 03/27/61	Michael J. Bartlett	01/22/02 - 11/22/02
John H. Fanning*	12/20/57 - 12/16/82	William B. Cowen	01/22/02 - 11/22/02
Arthur A. Kimball	09/13/60 - 03/06/61	R. Alexander Acosta	12/17/02 - 08/21/03
Frank W. McCulloch*	03/07/61 - 08/27/70	Robert J. Battista*	12/17/02 - 12/16/07
Gerald A. Brown	04/14/61 - 08/27/71	Peter C. Schaumber*	12/17/02 - 08/27/05
Howard Jenkins, Jr.	08/28/63 - 08/27/83		09/01/05 - 08/27/10
Sam Zagoria	04/20/65 - 12/16/69	Ronald E. Meisburg	01/12/04 - 12/08/04
Edward B. Miller*	06/03/70 - 12/16/74	Peter N. Kirsanow	01/04/06 - 12/31/07
Ralph E. Kennedy	12/14/70 - 07/31/75	Dennis P. Walsh	01/17/06 - 12/31/07
John A. Penello	02/22/72 - 01/14/81	Craig Becker	04/05/10 - 01/03/12
Betty S. Murphy*	02/18/75 - 12/14/79	Mark Gaston Pearce*	04/07/10 -
Peter D. Walther	11/26/75 - 08/31/77	Brian Hayes	06/29/10 - 12/16/12
John C. Truesdale*	10/25/77 - 08/27/80	Sharon Block	01/09/12 - 08/02/13
Don A. Zimmerman	09/17/80 - 12/16/84	Terence F. Flynn	01/09/12 - 07/24/12
John C. Truesdale*	10/23/80 - 01/26/81	Richard F. Griffin, Jr.	01/09/12 - 08/02/13
Robert P. Hunter	08/14/81 - 08/27/85	Nancy J. Schiffer	08/02/13 - 12/16/14
John R. Van de Water*	08/18/81 - 12/16/82	Kent Y. Hirozawa	08/05/13 -
John C. Miller*	12/23/82 - 03/07/83	Philip A. Miscimarra	08/07/13 -
Donald L. Dotson*	03/07/83 - 12/16/87	Harry I. Johnson, III	08/12/13 -
Patricia Diaz Dennis	05/05/83 - 06/24/86	Lauren McFerran	12/17/14 -
Wilford W. Johansen	05/28/85 - 06/15/89		
Marshall B. Babson	07/01/85 - 07/31/88		

GENERAL COUNSELS, 1935–2015 (* ACTING)

Charles Fahy	09/16/35 - 09/27/40	Norton J. Come*	10/20/79 - 12/23/79
Robert B. Watts	12/01/40 - 12/31/43	William A. Lubbers	12/24/79 - 04/24/84
Alvin J. Rockwell	01/01/44 - 09/16/45	Wilford W. Johansen*	04/27/84 - 10/12/84
David A. Morse	09/17/45 - 06/30/46	Rosemary M. Collyer	10/16/84 - 04/03/89
Gerhard P. Van Arkel	07/14/46 - 06/22/47	Joseph E. DeSio*	04/04/89 - 11/22/89
Robert N. Denham	08/01/47 - 09/15/50	Jerry M. Hunter	11/28/89 - 11/27/93
George J. Bott	09/29/50 - 12/20/54	Daniel Silverman*	11/28/93 - 03/02/94
Theophil C. Kammholz	03/29/55 - 01/02/57	Frederick L. Feinstein	03/03/94 - 11/19/99
Kenneth McGuiness*	01/03/57 - 03/03/57	Leonard R. Page	11/29/99 - 04/20/01
Jerome D. Fenton	03/04/57 - 06/28/59	John E. Higgins, Jr.*	05/16/01 - 06/03/01
Stuart Rothman	06/29/59 - 05/13/63	Arthur F. Rosenfeld	06/04/01 - 06/03/05
Arnold Ordman	05/14/63 - 06/25/71	John E. Higgins, Jr.*	06/04/05 - 06/30/05
Eugene G. Goslee*	06/26/71 - 08/23/71	Arthur F. Rosenfeld*	07/01/05 - 01/03/06
Peter G. Nash	08/24/71 - 08/14/75	Ronald Meisburg	01/04/06 - 06/18/10
John C. Miller*	08/15/75 - 11/30/75	Lafe E. Solomon*	06/21/10 - 11/04/13
John S. Irving	12/01/75 - 10/19/79	Richard F. Griffin, Jr.	11/04/13 -

PHOTOGRAPHY CREDITS

All photographs in this book are credited to the National Labor Relations Board except as specified below:

- Cover: Top to Bottom: Library of Congress; Wayne State University Archives of Labor and Urban Affairs; Library of Congress; National Labor Relations Board; Robert Durell; National Labor Relations Board
- Page 5: White House
- Page 10: AP Photo/Paul Sancya
- Page 11: Robert Durell
- Page 14: Top: Library of Congress; Bottom left: National Archives; Bottom right: George Meany Memorial Archives
- Page 15: Top: Wayne State University, The Archives of Labor and Urban Affairs
- Page 16: Left: Library of Congress; Top right: National Archives; Bottom right Library of Congress
- Page 17: World Wide Photos
- Page 18: World Wide Photos
- Page 19: World Wide Photos
- Page 20: Library of Congress
- Page 22: Left: Library of Congress; Top right: United States Postal Service
- Page 23: Right: George Meany Memorial Archives
- Page 24: Top: Temple University, Libraries, Photojournalism Collection; Middle right: National Archives
- Page 25: Top: Library of Congress
- Page 26: Top: Gross (James A.) Collection; Bottom left and right: Library of Congress; Bottom middle: NLRB
- Page 27: Library of Congress
- Page 28: Library of Congress
- Page 29: Left: Library of Congress; Bottom right: Library of Congress
- Page 30: Top left: NLRB; All others Library of Congress
- Page 31: Top right and bottom right: Proquest; Bottom left: George Meany Memorial Archives
- Page 32: Top right: Harry S. Truman Presidential Library; Middle: Library of Congress
- Page 36: Library of Congress
- Page 38: Bottom left: George Meany Memorial Archives; Top right: Library of Congress
- Page 40: Top: Wayne State University, The Archives of Labor and Urban Affairs
- Page 41: Top right: AFL-CIO News; Bottom left: Library of Congress
- Page 42: Top and bottom: George Meany Memorial Archives
- Page 43: Library of Congress
- Page 48: Top and middle: Temple University, Libraries, Photojournalism Collection
- Page 49: Top: George Meany Memorial Archives; Bottom: Library of Congress
- Page 51: Library of Congress
- Page 53: Top left and bottom left: Library of Congress
- Page 55: Top right: Library of Congress; Left: George Meany Memorial Archives
- Page 56: Top left: AFL-CIO News
- Page 59: Right: Library of Congress
- Page 60: Top left: Library of Congress; Bottom left: Bill Kostroun
- Page 61: Top: Bill Burke/Page One Photography; Bottom: Robert Fox, Impact Visuals
- Page 66: Andrew Martin

NATIONAL LABOR RELATIONS BOARD
1099 14TH STREET NW
WASHINGTON, DC 20570-0001

IN 2015, THE NLRB MOVES TO A NEW LOCATION:
1015 HALF ST. SE.
WASHINGTON, DC 20003
WWW.NLRB.GOV

